

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

TRANSCRIPT OF SENTENCING  
HELD BEFORE

THE HONORABLE JUDGE AMY BERMAN JACKSON  
UNITED STATES DISTRICT JUDGE

## A P P E A R A N C E S

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1                   THE COURTROOM DEPUTY: Your Honor, good morning.

2                   This morning we have case No. 17-201-1, the United  
3                   States of America v. Paul J. Manafort, Jr. Mr. Manafort is  
4                   present in the courtroom, Your Honor. Probation officers  
5                   present for these proceedings are Miss Kramer-Soares and Miss  
6                   Moses-Gregory.

7                   Will counsel for the parties please approach the  
8                   lectern, identify yourself for the record.

9                   MR. WEISSMANN: Good morning, Your Honor. Andrew  
10                  Weissmann for the government. And at the government's table  
11                  is, for the government, Counsel Jeannie Rhee and Greg Andres.  
12                  And in addition, Evan Binder, a paralegal with our office. And  
13                  with the FBI, Renee Michael and Mike Ficht.

14                  THE COURT: All right. Good morning.

15                  MR. DOWNING: Good morning, Your Honor. Kevin  
16                  Downing, Richard Westling, Thomas Zehnle, the defendant, Paul  
17                  Manafort. And with us is our paralegal Tim Wang.

18                  THE COURT: All right. Good morning.

19                  I have a question or two for you, Mr. Downing. We're  
20                  here this morning, obviously, for Mr. Manafort's sentencing.  
21                  The final presentence report in this case was filed on March  
22                  6th. Have both you and your client had an opportunity to read  
23                  it?

24                  MR. DOWNING: We have, Your Honor.

25                  THE COURT: And I think I understand, from reading

1           the objections and all the back-and-forth, that there aren't  
2           any factual disputes that I need to resolve right now, is that  
3           correct?

4                   MR. DOWNING: That's correct, Your Honor.

5                   THE COURT: And with respect to the legal issues, we  
6           have to determine whether I'm going to apply the adjustment for  
7           acceptance of responsibility and the enhancement for a  
8           leadership role in the offense. But other than that, there  
9           aren't any other legal issues to be resolved, is that correct?

10                  MR. DOWNING: I believe that's correct. And, Your  
11           Honor, with the respect to the defense, we rest on our papers  
12           that we filed with respect to the guideline determinations.

13                  THE COURT: Okay. All right. So I won't ask for  
14           argument on that then. Okay. You can be seated. Thank you.

15                  I've received additional materials, in addition to  
16           the presentence report, concerning the defendant, including the  
17           government's memorandum in aid of sentencing and its exhibits;  
18           also, the defendant's memorandum in aid of sentencing and a  
19           number of letters. I received a letter from his wife; one of  
20           his two daughters; Mr. Bennett, a friend for more than 30  
21           years; Lieutenant Colonel Holland, a friend for over 30 years;  
22           other lifelong friends, Mr. Cimadon and Mr. Mazzarella; the  
23           first cousin of his wife; the defendant's brother and  
24           brother-in-law; his brother-in-law's wife; one of his wife's  
25           friends; a niece; a Mr. Panuzio, who was a friend and a

1 colleague in the Ford administration; and a Mr. Davenport,  
2 another colleague and friend.

3 I want you to know that I appreciate all the letters  
4 and I've read them all.

5 In a criminal case there's a statute that tells me  
6 how I'm supposed to go about sentencing someone and it's 18  
7 U.S. Code §3553. It lists a number of important factors the  
8 Court's supposed to consider, and the advisory sentencing  
9 guidelines are one of the factors I must consider in  
10 determining the appropriate sentence.

11 Congress has created a commission that assigned  
12 recommended sentencing ranges to each offense and they can go  
13 up or down based on various factors set out in the guidelines.  
14 The guidelines are advisory, but the Court is required to  
15 calculate what they would recommend in every case. So, that's  
16 where I'm going to start. And it may take some time, but I  
17 want to emphasize that that's only a very small part of the  
18 analysis.

19 Before I get to what the guidelines would recommend,  
20 I think it's important to make clear at the outset that there  
21 are boundaries to what sentence can be imposed that are  
22 established by laws and cannot be changed. And there are laws  
23 that are before me and there are laws that aren't.

24 Defendant's conviction for the crime of filing false  
25 tax returns was not in this court. His conviction for failure

1 to file a foreign bank account report in 2012 was also not in  
2 this court. The bank fraud charges were not brought or tried  
3 in this court and he wasn't convicted of those here. He's been  
4 sentenced for each of the individual offenses for which he was  
5 convicted in the Eastern District of Virginia and the Court  
6 decided there that all of those sentences would be served  
7 concurrently to one another. What's happening today is not and  
8 cannot be a review or a revision of a sentence that was imposed  
9 by another court.

10 Here, the defendant pled guilty to two counts of  
11 violating 18 U.S. Code §371. That section prohibits  
12 conspiracy, either to commit any offense against the United  
13 States or to defraud the United States. Conspiracy carries a  
14 maximum penalty of 60 months, or five years, imprisonment. No  
15 charge here carries the sort of potential maximum sentence that  
16 the defendant was facing for bank fraud in the other case.

17 In Count 1 he pled guilty to conspiracy with multiple  
18 objects; to commit the offenses of money laundering, tax fraud,  
19 failure to file foreign bank account reports, violating the  
20 Foreign Agent Registration Act and making false statements;  
21 that is, lying to the United States Department of Justice.  
22 This list of the objects of the conspiracy -- and by that I  
23 mean the crimes the coconspirators agreed to commit -- include  
24 some of the same violations of tax laws and the laws regarding  
25 foreign bank accounts reports for which he was convicted in the

1           Virginia case, as well as crimes that were not part of the  
2           Virginia case.

3                 In Count 2 he pled guilty to conspiracy in 2018 to  
4                 obstruct justice and tamper with witnesses in this case while  
5                 the charges were pending in this court. The maximum sentence,  
6                 again, for Count 2 is 60 months, or five years. Thus, even if  
7                 he was sentenced to serve the maximum sentence on the two  
8                 counts consecutively, the maximum sentence that may be imposed  
9                 by this Court is ten years.

10               There's no provision that permits exceeding the  
11                 statutory maximum due to violations of the plea agreement. The  
12                 sentencing guidelines, as you'll learn, would recommend more  
13                 than ten years because there's so much money involved. But  
14                 there is no provision that permits sentencing in accordance  
15                 with the guidelines if the applicable guideline is greater than  
16                 statutory maximum.

17               No charge here carries the sort of potential sentence  
18                 the defendant was facing for bank fraud in the other case. And  
19                 there is one more restriction on this court, §5G1.3(b) of the  
20                 guidelines says: If a term of imprisonment resulted from  
21                 another offense that is relevant conduct to the instant offense  
22                 of conviction -- which means the offense before the Court at  
23                 this instant -- the sentence for the instant offense shall be  
24                 concurrent.

25               What does that mean? That means that while the bank

1       fraud counts in the Eastern District of Virginia were not based  
2       on conduct relevant to Count 1 in this court, the counts for  
3       filing false tax returns and failure to file a foreign bank  
4       account report were. And, therefore, the guidelines require  
5       overlapping sentences for overlapping counts.

6                  What do the guidelines provide in this case? The  
7       offense level is complicated by the fact that there are two  
8       charges and by the fact that the first conspiracy charge is a  
9       conspiracy to commit a number of other charges, which have  
10      different individual guideline calculations. And the short  
11      answer is, the highest applicable guideline controls.

12                  So, Mr. Downing, I guess I have a question for you.  
13       Are you handling the sentencing portion here?

14                  MR. DOWNING: I think we're going to break it up a  
15      little bit, depending upon the subject matter, Your Honor.

16                  THE COURT: Okay. Well, I just want to ask about the  
17      general guideline calculation. Is that you?

18                  MR. DOWNING: That would be Mr. Westling.

19                  THE COURT: All right. Mr. Westling.

20                  At the time of the plea, the anticipated guideline  
21      calculation was different than what's in the presentence  
22      report, which rolled the two counts together. I take it,  
23      though, that your only objection to the calculation in the  
24      presentence report now is the application of the enhancement  
25      for leadership role under §3B1.1 and acceptance of

1 responsibility?

2 MR. WESTLING: That's correct, Your Honor.

3 THE COURT: I know you have a policy disagreement,  
4 but you don't challenge the technical application of the 22-  
5 level increase for the amount of the fraud?

6 MR. WESTLING: That's correct.

7 THE COURT: Okay. And that is what leads us to  
8 starting at a base offense level of 30 for the money laundering  
9 and foreign bank account object of the conspiracy.

10 MR. WESTLING: Correct.

11 THE COURT: And you're also not objecting to the  
12 enhancements under the money laundering guideline, the two  
13 two-level enhancements --

14 MR. WESTLING: That's also correct, Your Honor.

15 THE COURT: -- under section 2S1.1(b) (2) (B) and  
16 (b) (3). And you're also not objecting to the two-level  
17 enhancement for the obstruction of justice regarding the false  
18 statements to the Department of Justice.

19 MR. WESTLING: Correct.

20 THE COURT: So I will address the two objections, but  
21 we agree that the Court can otherwise follow the calculations  
22 set out in the presentence report on pages 30 to 33 and I don't  
23 have to go through it all in great detail?

24 MR. WESTLING: That's correct, Your Honor.

25 THE COURT: Okay. According to the presentence

1 report, the base offense level for the money laundering object,  
2 which is what drove the sentence for the conspiracy as a whole,  
3 was 30. If you add the enhancements to which you don't object,  
4 and the four-level enhancement to which you do object, you get  
5 to Level 40. The presentence report writer did not subtract  
6 two levels for acceptance of responsibility. And that's how  
7 they reached 38.

8 Your position is that it should have been Level 36 to  
9 start with, minus the four-level enhancement, and then a  
10 reduction of two levels that would take it to Level 34, is that  
11 correct?

12 MR. WESTLING: That's correct, Your Honor.

13 THE COURT: But also at the time of the plea you did  
14 agree that a sentence at Level 37 would be a reasonable  
15 sentence, is that right?

16 MR. WESTLING: That's correct.

17 THE COURT: Okay. You can be seated. Thank you.

18 MR. WESTLING: Thank you, Your Honor.

19 THE COURT: So I think I need to address the disputed  
20 enhancements. And all of this, when you talk about the  
21 guidelines, is when the people who didn't realize math was  
22 going to be involved need to understand that there's a  
23 considerable amount of algebra that goes into the application  
24 of the sentencing guidelines.

25 §3B1.1 of the guidelines talks about the defendant's

1       role in the offense. If he was an organizer or leader of a  
2       criminal activity that involved five or more participants or  
3       was otherwise extensive, you can increase the offense level by  
4       four levels. It can be increased by three levels if he was a  
5       manager or supervisor but not an organizer or leader of the  
6       criminal activity, or two levels if he was a leader, manager or  
7       supervisor in any criminal activity that isn't described in the  
8       first two paragraphs.

9                  The presentence report writer recommended a  
10       four-level increase because he was an organizer or leader of a  
11       criminal activity that involved five or more participants.

12                 The defense has argued in its sentencing memo that an  
13       aggravating role enhancement is appropriate only in the context  
14       of a criminal organization or enterprise; that is, according to  
15       the defendant, an organization with a primary objective of  
16       engaging in crime. Both sides have briefed this issue  
17       thoroughly and the defense is resting on its papers.

18                 I take it the government is happy to rest on its  
19       papers as well?

20                 MR. WEISMANN: Yes, Your Honor.

21                 THE COURT: Basically nothing in the plain text of  
22       the guidelines or the application notes or any case law  
23       suggests that there is such a limitation on this enhancement.  
24       §3B1.1 talks about organizers and leaders of, quote, criminal  
25       activity, close quote. There's no requirement that the group

1       of individuals that the defendant led, managed or supervised be  
2       involved in what is solely or primarily a criminal enterprise.

3              The second application note to the guideline defines  
4       an activity in terms of the number of people involved only. It  
5       says to qualify for an adjustment under this section, the  
6       defendant must have been the organizer, leader, manager or  
7       supervisor of one or more other participants. It's silent  
8       about the objective or any primary objective.

9              Note three says in assessing whether an organization  
10      is otherwise extensive, all persons involved are to be  
11      considered. Doesn't mention what they were doing.

12              Application note number four, in distinguishing a  
13      leadership and organizational role from one of mere management  
14      or supervision, titles such as "kingpin" or "boss" are not  
15      controlling, which is sort of inconsistent with the defense  
16      theory. It also says the factors the Court should consider  
17      include the exercise of decision-making authority, the nature  
18      of participation in the commission of the offense, the  
19      recruitment of accomplices, the claimed right to a larger share  
20      of the fruits of the crime, the degree of planning --  
21      participation in the planning or organizing the offense, the  
22      nature and scope of the illegal activity and the degree of  
23      control exercised over others. There can, of course, be more  
24      than one person who qualifies as a leader of a criminal  
25      association or conspiracy.

1                   So the nature and scope of the illegal activity is  
2 only one factor, and this section isn't limited by the need to  
3 show a primary purpose either.

4                   The defense says, look at the section called  
5 background. It talks about the size of a criminal  
6 organization. But the defendant admits the fact that  
7 immediately after the term "organization," the background  
8 section says, in a parenthetical, i.e., that is, the number of  
9 participants in the offense.

10                  So this enhancement is all about an activity  
11 committed by a group and who was in charge of the group, and no  
12 other element is stated or implied. Every case that is cited  
13 in the defendant's memorandum simply uses the word  
14 "organization" or "enterprise." He hasn't pointed to any  
15 authority that adopts the gloss that he has added and holds  
16 that those words necessarily mean an enterprise with a primary  
17 criminal purpose. Meanwhile, on pages 8 to 9 of its  
18 memorandum, the government cites many cases that specifically  
19 reject this argument.

20                  So, I believe it's not a valid argument. Here, the  
21 number of people involved far exceeds five. We have Mr. Gates  
22 and Mr. Kilimnik, the people at each of the media lobbying  
23 outfits; Companies A and B and Law Firm A. They're listed in  
24 the presentence report on pages -- paragraph 61 and 88 to 91,  
25 and in the superseding indictment. And, therefore, I find that

1           the enhancement applies and we start at a Level 40 for  
2           calculating the guideline that goes with this offense.

3           The other dispute concerns Mr. Manafort's acceptance  
4           of responsibility. §3E1.1(a) says it applies if the defendant  
5           clearly demonstrates acceptance of responsibility for his  
6           offense, he gets a two-level reduction. So there's an  
7           additional one-level reduction upon motion of the government.  
8           The government has not filed such a motion; it's been freed  
9           from its promise to do so by my findings concerning the  
10          potential breach of the plea agreement and by defendant's  
11          concession that the government's argument that he breached the  
12          plea agreement was in good faith.

13           And, so, all that is at issue right now is the  
14          two-level reduction. The application note to this guideline  
15          lists appropriate considerations, and they include, but they  
16          are not limited to, whether he truthfully admitted the conduct  
17          comprising the offense, and admitted or didn't falsely deny  
18          relevant conduct, his voluntary termination or withdrawal from  
19          the criminal conduct or association, his voluntary assistance  
20          to authorities to the recovery of the fruits of the offense,  
21          and the timeliness of the defendant's conduct in manifesting  
22          his acceptance of responsibility. Some of these are stronger  
23          and some of these are weaker, but many of these apply.

24           Note three says entry of a guilty plea prior to the  
25          commencement of trial, combined with truthfully admitting the

1 conduct comprising the offense of conviction, and truthfully  
2 admitting or not falsely denying any relevant conduct for which  
3 he's accountable will constitute significant evidence of  
4 acceptance of responsibility for the purposes of subsection  
5 (a). However, this evidence may be outweighed by the conduct  
6 of the defendant that's inconsistent with such acceptance of  
7 responsibility.

8 In connection with that, my ruling on whether he lied  
9 during his cooperation sessions and breached the plea agreement  
10 has some relevance and, therefore, I think it's important to  
11 take a little detour for a moment and rule on docket 540, which  
12 is the defendant's motion for reconsideration of my finding  
13 that he breached the plea agreement in certain respects.

14 One issue that I was asked to discuss at that time  
15 was information where the testimony regarding -- testimony of  
16 Richard Gates regarding what transpired at a meeting on August  
17 2nd varied from the defendant's description of that meeting. I  
18 agree with the defense that the exhibit that I found at the  
19 time to be corroborative of Gates's testimony, but not  
20 dispositive, was actually irrelevant to that subject matter  
21 and, therefore, it was necessary to look back at my conclusion  
22 that he lied about that particular matter without reliance on  
23 that exhibit.

24 And so I have reviewed the transcript of the hearing,  
25 the supporting exhibits, and the new information provided by

1           the government, and I still find that the Office of Special  
2           Counsel proved by a preponderance of the evidence that Manafort  
3           intentionally gave false testimony with respect to that matter,  
4           which was just one of several matters that fell within the  
5           category of false statements regarding his interactions with  
6           Mr. Kilimnik.

7           I note that the fact that the witness, Mr. Gates,  
8           corrected the record and the inaccurate impression left by the  
9           exhibit, lends credence to his testimony. And, therefore, the  
10          motion to reconsider my finding that the defendant gave false  
11          statements regarding his interactions with Mr. Kilimnik is  
12          denied.

13          With respect to whether I should give him credit for  
14          acceptance of responsibility now, does either side want to  
15          argue that point?

16           MR. ZEHNLE: Yes, Your Honor.

17           THE COURT: All right. Mr. Zehnle.

18           MR. ZEHNLE: Your Honor summarized essentially what  
19          3E1.1 says in her lead-up to this argument. The defense  
20          position is that 3E1.1(a) -- and we're only dealing with (a)  
21          because we do understand that (b) is made only upon motion by  
22          the government. We're only dealing with 3E1.1(a) here.

23          The commentary talks about whether the defendant  
24          truthfully admitted the conduct comprising the offense of  
25          conviction, as the Court pointed out, and truthfully admitted,

1 or not falsely denied, any relevant conduct for which he is  
2 accountable under 1B1.3, which is the relevant conduct  
3 provisions that the Court spoke of earlier today, or at least  
4 in terms of addressing the EDVA charges.

5 Your Honor, our position is that Mr. Manafort did  
6 accept responsibility under 3E1.1(a). The misrepresentations  
7 that the Court just referenced -- and there were five, five  
8 areas, five topic areas, as the Court recalls. The three where  
9 the Court found that the government had met its burden of  
10 establishing an intentional misrepresentation were related to  
11 other areas of the government's broad investigation. The one  
12 area that actually touched upon the offense conduct in this  
13 case was the one dealing with Mr. Manafort and Mr. Kilimnik and  
14 the issue dealing with the witness tampering. In that specific  
15 instance the Court found that the government had not met its  
16 burden of establishing that, even under the preponderance  
17 standard.

18 So, Your Honor, our position is that when you look at  
19 3E1.1, the words of it, it basically says did he truthfully  
20 admit the conduct comprising the offense of conviction? Yes,  
21 he did. In the February 4th meeting, which -- and I'll only  
22 discuss the part that's been properly redacted. The Court  
23 might recall that I actually stood up and talked about that  
24 particular issue.

25 THE COURT: I do.

1                   MR. ZEHNLE: And so, our view is that he did not back  
2 away. And I remember the Court saying that's not the issue,  
3 they're not arguing about whether or not he's trying to  
4 sugarcoat his own acceptance of responsibility for that  
5 conduct. The Court pointed out, the government's issue was,  
6 was he trying to essentially diminish Mr. Kilimnik's conduct  
7 with respect to that conspiracy. And the Court has now since  
8 found that the government did not meet its burden in that  
9 particular respect.

10                  So my point is that Mr. Manafort has come forward,  
11 he's accepted responsibility by pleading guilty to both the  
12 multi-object conspiracy in Count 1 and, in Count 2, the  
13 conspiracy for witness tampering through the sending of the  
14 text directly and indirectly to the people over there.

15                  THE COURT: Yes. I don't want to cut you off.

16                  MR. ZEHNLE: No, that's okay.

17                  THE COURT: Okay. Thank you.

18                  Does the government want to address this issue?

19                  MR. WEISSMANN: Briefly.

20                  THE COURT: Okay.

21                  MR. WEISSMANN: Your Honor, we have a couple law  
22 points and a couple factual points.

23                  THE COURT: All right.

24                  MR. WEISSMANN: First, with respect to the law  
25 points, we understand this is a matter that is very much within

1           the discretion of the Court in deciding what to do. I would  
2           call Your Honor's attention to a recent case in the D.C.  
3           Circuit, *United States versus Leyva*, which was decided on  
4           February 26. In that case the Court repeated that it is the  
5           defendant's burden to show that he is entitled to the  
6           acceptance of responsibility.

7           Further, that case was interesting because there the  
8           Court was dealing with a defendant who had challenged his  
9           leadership role enhancement under the guidelines. And the  
10          Court noted that Leyva would confess and avoid on the ground  
11          that he merely sought to require the government to justify  
12          enhancements through reliable information. But the Court  
13          rejected that and said he cannot accept responsibility for his  
14          conduct and simultaneously contest the sufficiency of the  
15          evidence that he engaged in that conduct. And the Court --

16           THE COURT: I don't think in challenging the  
17          leadership role here they were challenging the underlying  
18          evidence, they were challenging the applicability.

19           MR. WEISSMANN: I wanted to address that. So there  
20          were two factual issues. I would completely agree with what  
21          the Court said with respect to the legal argument. I think  
22          there's absolutely no basis, and the government is not saying  
23          that because the defense is raising a legal argument that that  
24          in any way relates to acceptance of responsibility. That's  
25          something that lawyers are entitled to do, and if the law

1 supported their position, that would be fine.

2 My point goes to not the legal challenge, but there  
3 is a factual challenge that the defendant did make. So I think  
4 there are two bases here factually with respect to acceptance  
5 of responsibility. One is the defendant said, on page 35 of  
6 the defense sentencing submission, that he in fact was not a  
7 leader. He cited to the testimony of Richard Gates, saying  
8 that the only two people involved in the conspiracy were  
9 Richard Gates and he. And he cites a page of a trial  
10 transcript that in fact does not support that. That is not  
11 what Mr. Gates said. And, of course, Mr. Manafort, being the  
12 leader of this organization, knowing that it was more than he  
13 and Mr. Gates, should not have been putting forth that factual  
14 contention.

15 Again, I'm bringing that to the Court's attention.  
16 I'm not saying it's dispositive or not well within the  
17 discretion of the Court, but there is a factual representation  
18 that was made in the defense brief.

19 More to the point is the issue of the defendant's  
20 conduct after he entered the plea agreement in this case where  
21 the Court has found by a preponderance of the evidence that the  
22 defendant made false statements to the FBI and made false  
23 statements under oath to the grand jury. Repeatedly. And the  
24 acceptance of responsibility guideline is not one that is  
25 trying to just encourage pleas. If it were just about taking a

1       plea, the guideline would read very differently; it would be if  
2       you plead, you get acceptance, if you don't plead, you don't.  
3       And in fact, it works quite the opposite way. In fact, you can  
4       plead and not get acceptance, and you can not plead and get  
5       acceptance.

6                   THE COURT: That's rare.

7                   MR. WEISSMANN: It is rare, but the guidelines  
8       actually note that if, for instance, you're preserving a legal  
9       issue, you could be in that position where you're factually  
10      accepting, and it's like the issue we just talked about in  
11      terms of preserving a legal challenge.

12                  Here, although we haven't found a D.C. Circuit case  
13      that says you can consider conduct that is outside of the crime  
14      of conviction or relevant conduct, we have cited a series of  
15      circuit cases outside of the D.C. Circuit that say that the  
16      Court can consider that. And we think that is the correct  
17      reading because the acceptance of responsibility is -- again,  
18      it's not about accepting pleas, it's a proxy for what the Court  
19      is thinking about this defendant in terms of recidivism. It's  
20      a way of saying the defendant, who truly has accepted  
21      responsibility, poses a lesser risk and is deserving of a  
22      lesser sentence.

23                  So, here, I think that the -- what we would ask the  
24      Court to consider is whether that really is true for somebody  
25      who, in this circumstance, has repeatedly, as the Court found,

1                   engaged in deceitful conduct, both with the FBI and under oath.  
2                   Thank you.

3                   THE COURT: Okay. Thank you.

4                   I agree that I can consider conduct related to issues  
5                   other than the conduct involved in the offense, but I think if  
6                   you read the guideline itself and you read the application  
7                   notes, that the offense conduct is really the driving factor  
8                   with respect to the application of this particular enhancement.  
9                   And, therefore, given his plea and given his sworn admissions  
10                  in court, that he committed the offense for which he was  
11                  charged, I believe the defendant has met his burden and I will  
12                  give him credit for the two-level reduction, which means that  
13                  the total offense level for guideline purposes is Level 38.

14                  I note, given his criminal history category, which is  
15                  that he has no prior criminal convictions and he's in Category  
16                  I, that even with that reduction the advisory sentencing  
17                  guideline range far exceeds the maximum sentence available  
18                  under the statutes in this case for either count individually,  
19                  and even for both combined. At Level 38 the recommended  
20                  guideline range is 235 to 293 months, which is 19.4 to 24.4  
21                  years, and Level 40 would have started at 292 months and gone  
22                  up to 365 months.

23                  I do want to say that acceptance of responsibility  
24                  for purposes of the guidelines is not the same thing as  
25                  acceptance of responsibility in a more existential and personal

1 sense. And how that might bear on the consideration of the  
2 statutory factors here, such as the history and characteristics  
3 of the defendant and what is sufficient but not greater than  
4 necessary to fulfill all the goals of a sentence under the  
5 statute, I'm going to address all of that later.

6 I do note that in its memorandum, the defense pointed  
7 to guideline §5H1.4, which says that an extraordinary physical  
8 impairment may be a reason to depart downward. But I just want  
9 to make clear that there's no formal motion for a downward  
10 departure under that section. Am I correct that you're simply  
11 asking me to take all those factors into consideration in  
12 connection with a possible variance or what to impose under the  
13 statute?

14 MR. WESTLING: That's correct, Your Honor.

15 THE COURT: Okay. All right. So I think --

16 Yes?

17 MR. DOWNING: Your Honor, just a matter of  
18 administrative convenience, you said earlier when you were  
19 talking --

20 THE COURT: Can you come to the lectern so we can get  
21 you on the record?

22 MR. DOWNING: A little bit earlier you were talking  
23 about the issue of concurrent sentencing under the guidelines.  
24 I just wanted to point out, I believe I heard you say that the  
25 loan fraud is not implicated in this case. In the superseding

1 information, in paragraph 58, there is a reference to:

2 Further, Manafort defrauded the banks that loaned him the money  
3 so that he could withdraw more money at cheaper rates than  
4 otherwise would have been permitted. We believe that the loan  
5 fraud issue in EDVA is in fact implicated here.

6 THE COURT: I don't think bank fraud is one of the  
7 offenses for which he was convicted and for which he pled. The  
8 offense was conspiracy to -- the tax counts are the same,  
9 conspiracy to not file the foreign bank account reports. But  
10 he was not charged in this case with conspiring to defraud the  
11 banks that made loans to him.

12 MR. DOWNING: In the superseding indictment, no. In  
13 the superseding information, paragraph 58 refers to loan fraud,  
14 Your Honor. It's in here. I'm just letting you know.

15 THE COURT: It's not an object of the conspiracy,  
16 it's just a fact that's set out in the information. I do think  
17 it's important.

18 MR. DOWNING: Okay. I'm just making the point, the  
19 initial indictments that came out in this case referenced --

20 THE COURT: I'm not talking about that. I'm talking  
21 about the offense conduct here is what he pled guilty to. And  
22 Count 1 had multiple objects, and one of those objects was not  
23 bank fraud; am I correct?

24 MR. DOWNING: Well, what I'm saying to you is that in  
25 their conspiracy allegation they are spelling out loan fraud.

1       It's in the superseding information. That's the only point I  
2       wanted to make. I don't think that means it's not related to  
3       what he pled to here because it's directly in that superseding  
4       information. And I don't think the government put it in there  
5       because they thought it was extraneous. They're saying this is  
6       sum and substance of the overall conspiracy, and that's how we  
7       read 58. So I just want to point that out for the Court.

8                     THE COURT: All right. Mr. Weissmann, can you tell  
9       me off the top of your head whether the statement of offense to  
10      which he pled guilty -- I know it talks about disguising income  
11      as loans as part of the tax fraud object of the conspiracy, but  
12      under -- in the statement of offense does he admit to  
13      defrauding the banks in connection with the loans that he was  
14      either convicted of or were presented to the jury in the  
15      Eastern District of Virginia?

16                    MR. WEISSMANN: Your Honor, the statement of offense  
17      only addresses the bank fraud issues in the other-acts portion  
18      of the statement of offense. So, if the Court looks at pages  
19      20, 21, 22, and 23, at the -- which is paragraphs 47 to 54,  
20      Your Honor may recall that the defendant, in the statement of  
21      offense, admitted the bank frauds as to which there were hung  
22      counts in the Eastern District of Virginia.

23                    THE COURT: Yes.

24                    MR. WEISSMANN: Yes. But then in the case here, as  
25      Your Honor can see from the presentence report, none of the

1 bank fraud conduct is -- it is noted that the defendant was  
2 convicted and has admitted the bank fraud conduct, but that is  
3 all dealt with as a matter of description; it doesn't in any  
4 way govern the guidelines or is calculated in any way in terms  
5 of either Count 1 or Count 2.

6 THE COURT: All right. We're now at the point where  
7 I'm going to invite each side to speak regarding the  
8 appropriate sentence in this case. So, who from the government  
9 is going to handle that?

10 MR. WEISSMANN: I am.

11 THE COURT: All right. You can come back.

12 MR. WEISSMANN: Your Honor, there is also -- I have a  
13 question for Your Honor as to how you would like to proceed  
14 with respect to the, sort of, financial aspect of the case?

15 THE COURT: I've been presented with an agreed order  
16 of forfeiture and I've signed it.

17 MR. WEISSMANN: Okay.

18 THE COURT: Is there something else?

19 MR. WEISSMANN: The other issue that I wanted to  
20 raise really had to do with paragraph 152 in the presentence  
21 report, which is where the probation department calculates the  
22 defendant's liabilities and assets to -- I wanted the Court to  
23 note that the liabilities essentially are counted twice. So in  
24 counting the defendant's assets, they have deducted already the  
25 mortgages on the properties. In other words, they have not

1           counted the full market value. But in the liabilities they've  
2           counted already the mortgages. So, there actually is double  
3           counting of those liabilities.

4           THE COURT: All right. Are you asking that in  
5           addition to all the forfeiture, that I sentence him to pay a  
6           fine?

7           MR. WEISSMANN: I think that it's within the Court's  
8           discretion. We understand the guideline range, but I do think  
9           that if the Court notes the double counting, it ultimately  
10          results in over a \$20 million spread. So, we totally  
11          understand that if you consider the \$6 million restitution  
12          order to the IRS, which we're asking for, as well as the  
13          forfeiture order that is proposed, that a fine here is well  
14          within the discretion of the Court. But there would be -- if  
15          you look at the paragraph 152, there would be assets to pay  
16          that.

17           We, obviously, leave to the Court whether that's  
18          something that is necessary, given the other financial  
19          components. But I wanted to make sure the Court is aware of  
20          it.

21           THE COURT: Are you arguing that it's necessary,  
22          given the other financial components?

23           MR. WEISSMANN: We're not arguing that it's  
24          necessary, but we wanted to make sure the Court had the correct  
25          factual information about the financial wherewithal of the

1 defendant, given what seemed like a considerable double  
2 counting.

3 THE COURT: Okay.

4 MR. WEISSMANN: So, addressing the facts here --

5 MR. WESTLING: Your Honor, I hate to interrupt. I  
6 know you've just been talking about the forfeiture. There is  
7 one issue I want to put on the record, if that's okay. I'll do  
8 it whenever it's convenient for the Court.

9 THE COURT: Why don't we do it right now.

10 So don't go far.

11 MR. WESTLING: I apologize. So I just wanted to  
12 clarify, the government submitted an order of forfeiture and  
13 was correct in saying that we had approved the order as to  
14 form. We also understand our obligation under the plea  
15 agreement with regard to the specific assets, which are  
16 specifically identified and have been agreed to be forfeited by  
17 the plea agreement.

18 The issue we did want to put an objection on the  
19 record to is the government's request for an \$11 million money  
20 judgment. That is not something that was in the plea agreement  
21 originally and I understand that the Court has made a ruling on  
22 the breach issue, which frees the government to seek additional  
23 remedies.

24 But we did want to make clear, obviously we've  
25 objected to the breach, we don't think that occurred, the Court

1 has differed with us. But it's important for the record that I  
2 am clear that we do not think the \$11 million money judgment is  
3 appropriate.

4 THE COURT: All right. I thought this order was  
5 being presented to me as an agreed order.

6 MR. WESTLING: I understand.

7 THE COURT: All right. Well, when it's time for you  
8 to allocute, or whoever is going to allocute, you can let me  
9 know why you believe that shouldn't be in the order that was  
10 presented to me --

11 MR. WESTLING: Understood.

12 THE COURT: -- by both parties for my signature.

13 MR. WESTLING: Understood. Thank you, Your Honor.

14 THE COURT: And, Mr. Weissmann, you can touch on this  
15 in your remarks as well.

16 MR. WEISSMANN: Starting just with that issue, we  
17 submitted that because we'd given the draft, as revised by  
18 defense counsel, who said that it was fine to submit and they  
19 don't object to it, and that's why we made the representation  
20 that we did in the submission to Your Honor. My understanding,  
21 from speaking to defense counsel this morning, is that they  
22 were going to note an objection for the record, given that they  
23 wanted to preserve an issue of breach, but they weren't  
24 actually interposing a substantive objection to the order.

25 THE COURT: All right.

1                   MR. WEISSMANN: We do think that simply looking at  
2 Government Exhibit 437, which is a chart of -- just one of the  
3 charts related to monies that were earned and proceeds of the  
4 FARA violation would support the order that was submitted.

5                   Your Honor, we're here today because of crimes Paul  
6 Manafort committed for over a decade, beginning in 2006 and  
7 going up through 2018. Paul Manafort claims, in mitigation, to  
8 have learned -- and I'm going to use a quote -- a harsh lesson,  
9 unquote, from his being brought to justice for his crimes. And  
10 says further that he has lived to seek -- to promote American  
11 ideals and principles. Again, that's a quote. But the  
12 government submits that his conduct belies both of those  
13 things.

14                  Let me first address the tax and foreign bank account  
15 crimes. Some of those crimes involved a sophisticated scheme  
16 to avoid a duty all Americans have, which is to pay taxes. He  
17 hid his wealth in over 30 offshore accounts, in three foreign  
18 countries, holding over \$50 million in money from his work for  
19 a foreign government, Ukraine, as well as a Russian oligarch,  
20 Oleg Deripaska. He used these hidden, offshore accounts,  
21 falsified tax returns, and fake loans to disguise his income  
22 and thereby avoid paying over \$6 million in taxes, money he  
23 used to fuel an extravagant lifestyle.

24                  Manafort makes much in his sentencing submission that  
25 he also supported his family and friends financially. He makes

1 other mitigating arguments. I'm not trying to say that this is  
2 the exclusive argument, but he makes much of having financially  
3 supported people. That, in other circumstances, would be truly  
4 admirable. It is less so when it is done with other people's  
5 money. We ask that the Court, as part of the sentence here,  
6 impose an order of restitution to the IRS in the amount of  
7 \$6,164,032.

8 There are more crimes to cover. Let me turn to the  
9 Foreign Agent Registration Act and money laundering crimes.  
10 Mr. Manafort committed crimes that undermine our political  
11 process and subverted the due process of law. Mr. Manafort was  
12 well aware of the Foreign Agents Registration Act through his  
13 work for decades representing foreign governments and  
14 individuals. His brief lists some of them, but not all. He  
15 omits Angola, Saudi Arabia, Mr. Deripaska, who I referenced  
16 earlier.

17 As we noted to the Court in our sentencing  
18 submission, Mr. Manafort was audited by the Department of  
19 Justice. He knew from -- at the very least, from that audit he  
20 knew what he could and could not do under the Foreign Agents  
21 Registration Act. Indeed, he had to give up a presidential  
22 appointment in light of that audit. The law, as we explained  
23 in our submission, does not allow someone to be both a  
24 government official and an agent of a foreign government. Mr.  
25 Manafort sought a waiver from the Reagan White House, they said

1 no, and he had to make a choice, was he going to represent  
2 foreign governments or was he going to represent the United  
3 States. And he decided to represent foreign governments.

4 Now, the Foreign Agents Registration Act lets the  
5 American public, as well as public officials who are being  
6 lobbied, know what foreign governments are lobbying our  
7 government to do. It all has to be reported. What press  
8 articles are being written on behalf of the foreign government,  
9 what senators are being contacted, what people in the executive  
10 branch are being importuned to do; when, where, what and how  
11 much money is being spent. That law got in the way of  
12 Mr. Manafort. Secrecy was integral to what Mr. Manafort wanted  
13 to do for Ukraine.

14 On behalf of Ukraine, Mr. Manafort engaged for years  
15 in illegal lobbying in the United States, secretly contacting  
16 members of Congress and members of the executive branch to  
17 promote the corrupt Yanukovych regime. His operation placed  
18 ghost-written opinion pieces in newspapers; paid, ostensibly,  
19 independent bloggers to write favorable Ukraine stories. He  
20 passed off former senior European leaders as independent  
21 dignitaries supporting Yanukovych, when in truth and in fact,  
22 these senior former European leaders were handsomely paid  
23 lobbyists for Ukraine.

24 He created fake scandalous stories about Yanukovych's  
25 political rival, Yulia Tymoshenko, going so far as to say that

1       she engaged in murder for hire. Manafort promulgated a  
2       supposedly independent report justifying the imprisonment of  
3       Tymoshenko, even though Manafort knew a series of undisclosed  
4       facts that would have cast the report in a very different  
5       light.

6                  For instance, Mr. Manafort knew that the law firm  
7       that wrote the report was tasked with also representing Ukraine  
8       in the Tymoshenko case and in training the prosecution team.  
9       None of that was disclosed. Mr. Manafort, in essence,  
10      undermined the very ideal of due process. Keeping a woman in  
11      jail because it would serve to prop up the Yanukovych regime  
12      and thwart calls in the United States -- in the United States'  
13      political leadership for Ukraine sanctions in condemnation.  
14      His work, in sum, was corrosive to faith in a political process  
15      in the United States and abroad.

16                  Now, Mr. Manafort's crimes did not stop there in  
17      terms of undermining the rule of law. When the Department of  
18      Justice started investigating, in the fall of 2016, his  
19      compliance with the Foreign Agents Registration Act,  
20      Mr. Manafort lied to his legal counsel and had her submit  
21      unknowingly and unwittingly on her part a series of false  
22      statements to the Department of Justice to throw them off the  
23      track. These were independent crimes under the Foreign Agents  
24      Registration Act, in addition to the underlying violation of  
25      the Act.

1                   I'll turn later to the Hapsburg Group obstruction in  
2                   a separate piece, although it does relate to the Foreign Agents  
3                   Registration Act and money laundering.

4                   I want to call the Court's attention to a number of  
5                   ways in which the Foreign Agents Registration Act violation  
6                   here is egregious. It is hard to imagine a more righteous  
7                   prosecution of this Act.

8                   Mr. Manafort violated the Act in three separate ways.  
9                   He violated the money laundering statute to promote the  
10                  violation of the Act, and he obstructed justice twice to thwart  
11                  getting caught for this crime. And he -- when he violated the  
12                  act himself, he did so in a particularly corrosive manner. I'm  
13                  just going to tick off the way I get to those -- that analysis.

14                  As mentioned, he was explicitly warned about its  
15                  requirements. Nevertheless, he chose to violate it for years.

16                  Second, he violated the act himself over and over  
17                  again.

18                  Third, he got many, many other people and entities to  
19                  violate the Act. Your Honor has noted three of them with  
20                  respect to Companies A and B and Law Firm A, who have all filed  
21                  corrective filings with the Department of Justice. There are  
22                  many other entities and people that are named in the  
23                  presentence report.

24                  In addition, I would note to the Court that  
25                  Mr. Manafort importuned one company not to file, and then only

1 after that company stopped working with Mr. Manafort did they  
2 go ahead and file belatedly.

3                  Fourth, Mr. Manafort laundered \$11 million to promote  
4 those FARA violations. So it simply isn't true, as the defense  
5 claims, that he cannot be guilty of FARA and also -- not also  
6 have violated the money laundering statute. One could commit a  
7 crime of violating the Foreign Agents Registration Act, but not  
8 also be the person who's financing other people to violate the  
9 Act. Those are very separate pieces of behavior.

10                Fifth, when investigators were on to Mr. Manafort, he  
11 lied repeatedly to the Department of Justice, yet another  
12 violation of the Act.

13                Six, which I'll discuss in a moment, he then tampered  
14 with two witnesses to avoid getting caught for the Foreign  
15 Agent Registration Act crime and the money laundering with  
16 respect to that crime.

17                Seventh, in violating that Act he not only kept what  
18 he was doing from the American public, he also kept what he was  
19 doing from the people he was lobbying. In other words, when he  
20 was using, for instance, the Hapsburg Group to lobby in the  
21 Oval Office, in the Senate, none of those people were told that  
22 those former European leaders were in fact paid lobbyists for  
23 Ukraine.

24                So, there's sort of -- this isn't a simple situation  
25 where you have a lobbyist who's otherwise being transparent in

1           terms of what they are doing and who they're acting for. As  
2           the Court knows, Mr. Manafort went about creating a sham  
3           entity. You have the European Center for a Modern Ukraine that  
4           was set up precisely so that there wouldn't have to be a filing  
5           under the Foreign Agents Registration Act and that could be  
6           used, as one of the witnesses said, as a fig leaf, to avoid  
7           having to make these disclosures.

8                 And finally, in the belated FARA filing that  
9           Mr. Manafort filed in June of 2017, the one that he touts so in  
10           his brief as saying this all could have gone away as a simple  
11           civil regulatory matter, I would invite the Court to look at  
12           that filing. It is woefully false and incomplete.

13                 What kinds of things does it leave out? Well, let's  
14           see. It leaves out that he did work for Ukraine. It leaves  
15           out that he did work for President Yanukovych. It leaves out  
16           all of the United States lobbying that was directed by him by  
17           Law Firm A, by Company A, by Company B, by the Hapsburg Group.  
18           The very, very lengthy charts that we have submitted to the  
19           Court documenting all of the steps that Mr. Manafort directed,  
20           all of that is left out except for one day.

21                 There is one day that is listed, and the only reason,  
22           I would submit, that that day is listed, which is March 13 of  
23           2013, is because Company A had already filed its corrective  
24           filing and it listed exactly what happened on those days -- on  
25           that date. Sorry. So that is the one day, if you look at

1           Mr. Manafort's filing, where he says he did anything in the  
2           United States.

3           So it simply isn't the case that a false and  
4           incomplete filing was going to be the end of the day. It  
5           neither would, could, nor should be absolution for a criminal  
6           prosecution.

7           I would note that Mr. Manafort is also not the first  
8           person who has been charged with the Foreign Agents  
9           Registration Act. He is also not the first person who's been  
10           charged with money laundering to promote a violation of the  
11           Foreign Agents Registration Act. I would call Your Honor's  
12           attention to the case of *Tongsun Park* in the Southern District  
13           of New York. He was prosecuted in 2007 in connection with the  
14           oil-for-food case. And there, Mr. Park was charged with a  
15           crime remarkably similar, a 371 conspiracy that involved a  
16           conspiracy to violate the Foreign Agents Registration Act and  
17           money laundering, with the SUA -- the specified unlawful  
18           activity -- being the promotion of the Foreign Agent  
19           Registration Act crime. Exactly as was done here.

20           For that single crime of conviction, because of the  
21           level of more than and the limited role of the offense,  
22           Mr. Park had a guideline range of 57 to 71 months, a Level 25.  
23           Because it's a five-year count, the Court could not sentence  
24           more than 60 months. And Mr. Park was sentenced to 60 months  
25           and then he cooperated with the government and his sentence

1           eventually was lowered.

2           If the Court would like, there are two published  
3       decisions on that case where the Court notes what it did in  
4       terms of sentencing, so it can verify what I'm saying about the  
5       case. One of the cites is 533 F.Supp.2d 474.

6           Let me go on to other crimes, because Mr. Manafort's  
7       crimes did not stop with his indictment of the tax offenses,  
8       the Foreign Agents Registration Act offenses, the foreign bank  
9       account offenses, the money laundering offenses, or even the  
10      bank fraud charges in Virginia, which involved crimes up  
11      through 2017. In a further subversion of the rule of law,  
12      after being indicted, while on bail from two federal courts, in  
13      a high profile matter, Mr. Manafort engaged in crimes that go  
14      to the heart of the American criminal justice system; tampering  
15      with witnesses.

16           As the Court knows, that criminal conduct, trying to  
17      induce two witnesses to lie for him to avoid criminal  
18      accountability, resulted in his bail being revoked. As the  
19      Court noted at the time, in something that I think is relevant  
20      to sentencing, it could not conclude that Mr. Manafort would  
21      abide by the Court's directions and directives.

22           The court (sic) submits that it is useful to stop for  
23      a moment to think about that conduct, about the fact that you  
24      have somebody who is the former campaign chairman for a major  
25      political party under indictment in two cases, with a national

1           spotlight on him, with two Court orders releasing him on bail  
2           but directing that he cannot commit further crime, something  
3           that ordinary citizens do not need to be told with a Court  
4           order; everyone knows you can't do that. And he then chose,  
5           while under house arrest, to commit the crime of obstruction of  
6           justice by tampering with witnesses.

7           I believe that that is not reflective of somebody  
8           who's learned a harsh lesson. It is not a reflection of  
9           remorse. It is evidence that something is wrong with, sort of,  
10          a moral compass, that somebody in that position would choose to  
11          make that decision at that moment.

12          But as the Court knows, that doesn't even end the  
13          story. Mr. Manafort finally, after going to trial, after being  
14          found guilty, after pleading guilty before Your Honor, and even  
15          after being afforded the unusual opportunity after trial to  
16          cooperate with the government, Mr. Manafort engaged in further  
17          misconduct. The Court found that he lied to the FBI and under  
18          oath to the grand jury. He did so repeatedly, sitting in a  
19          room face-to-face with FBI agents; under oath, face-to-face  
20          with at least 16 grand jurors. He chose to lie over and over  
21          again to them.

22          The Court is aware of the nature of those lies, the  
23          particular subject matters and the fact that they are material  
24          to the government's investigation here and in another District.

25          To conclude, Paul Manafort's upbringing, his

1 education, his means, his opportunities could have led him to  
2 lead a life to be a leading example for this country. At each  
3 juncture, though, Mr. Manafort chose to take a different path.  
4 He engaged in crime again and again. He has not learned a  
5 harsh lesson. He served to undermine, not promote American  
6 ideals of honesty, transparency, and playing by the rules. We  
7 leave to the Court to fashion a punishment that reflects the  
8 seriousness of this conduct. Thank you.

9 THE COURT: Thank you.

10 Would defense counsel like to speak on defendant's  
11 behalf?

12 MR. DOWNING: Thank you, Your Honor. Your Honor, I'm  
13 going speak for a short period of time on a discrete issue and  
14 then Mr. Westling is going to deal with a separate discrete  
15 issue, and then Mr. Zehnle, if that's okay with the Court. We  
16 just kind of broke it up subject matter-wise.

17 THE COURT: That's fine.

18 MR. DOWNING: To start with, Mr. Manafort recognizes  
19 these are serious crimes that he's pled to and being convicted  
20 of. And he will address the Court at the time you allow him to  
21 and to show that he truly is sorry for violating the law.

22 The FARA violation itself I would like to address off  
23 the bat. Obviously it's a felony not to file a Foreign Agent  
24 Registration form, and that is definitely serious. But I would  
25 like to make a distinction about this case as to some of the

1 other cases that have been prosecuted in the past. And, Your  
2 Honor, there's only been about six cases since 1966.

3 The *Park* case which Mr. Weissmann was talking about  
4 before, the underlying crime there was bribing members of  
5 Congress. It wasn't just not filing a form. It was a very  
6 serious issue in *Park*. The money laundering stemmed from the  
7 bribing of congressmen and providing them with illegal campaign  
8 contributions. So we think the nature of that offense is quite  
9 different than what we have here.

10 But what I would like to concentrate on is the  
11 important issue behind FARA. FARA's two-pronged approach is  
12 that both the citizens of the United States and the government  
13 should know about foreign agents' activity; it should be known  
14 to both. In this particular case, Mr. Manafort's activities  
15 with respect to the Ukraine were well publicized in newspapers  
16 throughout the country. But more importantly, you heard  
17 evidence before -- and this is the sealed part of the case, so  
18 I can't get in to the detail. Someday it will be unsealed.

19 But Mr. Manafort and Mr. Kilimnik, on a regular  
20 basis, were dealing with State Department officials in the U.S.  
21 embassy in Kyiv. And the information that was being conveyed  
22 about his activities in the Ukraine, and shared information,  
23 was shared at the highest levels of the State Department.

24 So, while, yes, he did not file the form, I do think  
25 the requisite notice about his activities was out there.

1 Not -- he did not comply with the FARA requirement, but I think  
2 the Court should take that into consideration. I also think  
3 the fact that Mr. Manafort --

4 THE COURT: Where is it in the record that

5 Mr. Manafort was communicating with the State Department in  
6 Kyiv?

7 MR. DOWNING: In the 302s that were part of the --

8 THE COURT: That Mr. Kilimnik was.

9 MR. DOWNING: No, it also referenced Mr. Manafort.  
10 And the United States government has --

11 THE COURT: And in that he was talking about the  
12 lobbying that he was doing in the United States? Is that in  
13 there?

14 MR. DOWNING: No, we're talking about the activities  
15 in the Ukraine.

16 THE COURT: Go ahead.

17 MR. DOWNING: The government has conceded this issue  
18 also, Your Honor, that Mr. Manafort was in regular contact with  
19 officials at the embassy, that's part of one of our hearings.  
20 So that's really not in dispute.

21 THE COURT: What does that have to do with the  
22 Foreign Agents Registration Act?

23 MR. DOWNING: I'm saying it has to do with notice to  
24 the U.S. government. I mean, the highest level State  
25 Department officials knew of Mr. Manafort's activities. That

1           matters. It's not that he was hiding his activities from the  
2           very State Department people that were most interested in what  
3           he was doing. So I'm just making the point that the FARA  
4           registration --

5                         THE COURT: The State Department in Kyiv.

6                         MR. DOWNING: Well, the State Department in Kyiv  
7                         communicated --

8                         THE COURT: I want to make sure that's the one we're  
9                         talking about.

10                        MR. DOWNING: We are. But also, it's not just there,  
11                         Your Honor. The 302s that are sealed also refer to  
12                         communicating that information to the highest levels of the  
13                         State Department here in the United States. So if you want to  
14                         go back and take a look at those, I think that's very  
15                         important.

16                        So, the officials who really wanted to know what  
17                         Manafort -- some of those officials knew because they were  
18                         communicating with him. And I think that an important  
19                         distinction from some of these other cases, where the activity  
20                         itself was not known to anyone in the U.S. government. And I  
21                         think that should be considered by the Court in terms of the  
22                         non-file. Because the two goals, one is the *New York Times* and  
23                         other publications were reporting on what Mr. Manafort was  
24                         doing in the Ukraine, which goes to public knowledge. And the  
25                         other one has to do with the knowledge of the U.S. government,

1                   the State Department officials, who both he and Mr. Kilimnik  
2                   were communicating with. So I think that's an important issue.

3                   I also think it's important for the Court -- and it's  
4                   in detail in our brief, that this office itself was working  
5                   with Mr. Manafort and decided on their part, from the  
6                   information they had, that Mr. Manafort had to file a FARA  
7                   registration. And he was in the process of doing that when it  
8                   was stopped and the case was taken over by the Office of  
9                   Special Counsel. So, there was a determination on their part  
10                  that --

11                  THE COURT: You talked about this determination, many  
12                  times.

13                  MR. DOWNING: Yes.

14                  THE COURT: And I understand that they -- nothing  
15                  came of what they were doing. But what is the basis for your  
16                  claim that they made a decision?

17                  MR. DOWNING: There is a letter from the office  
18                  stating that despite not getting information from Mr. Manafort,  
19                  they have sufficient evidence that he needs to file a FARA  
20                  registration with respect to his representation of the  
21                  Ukrainian government, the Party of Regions, and Mr. Yanukovych.  
22                  That came from --

23                  THE COURT: And does it say: And, therefore, we will  
24                  take no further action with respect to his prior failure, that  
25                  will end the matter, that they made a determination that that

1           was the end of it? And what was the date of that letter?

2           MR. DOWNING: I don't have the letter on me. But I  
3 believe it was June. One moment, please.

4           THE COURT: All right.

5           MR. DOWNING: Your Honor, it was in the March, April  
6 timeframe.

7           THE COURT: March, April 2017?

8           MR. DOWNING: '17. And we can get copies of those  
9 letters to the Court. I apologize for not having it on me  
10 right now.

11           But -- and the determination was that the filing was  
12 required. And Mr. Manafort was in the process of getting that  
13 filing done with the FARA office. The only reason I'm raising  
14 this, and it doesn't -- it's, obviously, no legal impediment to  
15 the Department of Justice or the Office of Special Counsel  
16 bringing the charge, I'm not raising it for that issue. But  
17 the office itself had told the Inspector General that what its  
18 mission is, is to get more folks in and get them filed; not to  
19 bring criminal prosecutions. That they were trying to have  
20 this, kind of, more communicative style of dealing with folks  
21 that are out there to get more information in.

22           As a result of this prosecution -- we put in the  
23 sentencing memo -- that the FARA filings have more than  
24 doubled. And that the amendments to FARA filings have grown  
25 exponentially. So I think it's important that the Court also

1 know that as a result of this, that there has been a general  
2 increase in compliance on FARA and, also, the deterrent effect  
3 has been made known.

4 With respect to other individuals or entities that  
5 were involved with Mr. Manafort, including a major law firm,  
6 those matters are being resolved civilly, as we understand.  
7 One, in fact, recently has occurred, with respect to the law  
8 firm, for about \$4.7 million. It's been resolved civilly. And  
9 that's just how that office generally operates. It's not to  
10 say it can't be a criminal prosecution, but I think it's  
11 important for the Court to consider that process was ongoing at  
12 the time and there was that determination by that FARA office,  
13 with Mr. Manafort working through a lawyer to get that  
14 compliance done.

15 I also would like to point out --

16 THE COURT: The same lawyer that he directed to lie  
17 to the Department of Justice?

18 MR. DOWNING: The very same, Your Honor.

19 THE COURT: All right.

20 MR. DOWNING: I would also like to point out, in  
21 terms of knowledge of the United States as to activities, FBI  
22 agents did go and talk to Mr. Manafort in 2014, and Mr. Gates,  
23 regarding an offshore investigation of Mr. Yanukovych and  
24 monies he allegedly took from the Ukraine. During that  
25 interview, both Mr. Manafort himself, and he directed

1                   Mr. Gates, to cooperate and provide information to help the FBI  
2                   with respect to that investigation, which they did. And what  
3                   they did was they identified some of these offshore accounts  
4                   and the location of them in Cyprus for the FBI.

5                   So, again, this is a couple of years before -- or,  
6                   three years before the existence of the special counsel. But  
7                   it should indicate to the Court, when law enforcement showed  
8                   up, that Mr. Manafort was in a position and did in fact  
9                   cooperate and provide information. So, I think overall in  
10                  terms of --

11                  THE COURT: When you say he identified some?

12                  MR. DOWNING: They identified entity accounts that  
13                  were in Cyprus. There's a list of them that were identified at  
14                  the time and the bank where they were located.

15                  THE COURT: So how many weren't identified?

16                  MR. DOWNING: I don't know the answer to that, Your  
17                  Honor. But several of the accounts were identified and the  
18                  location of the accounts.

19                  THE COURT: Okay.

20                  MR. DOWNING: So I think these are all important  
21                  issues. I think that -- one other issue that, you know, the  
22                  case itself, the Office of Special Counsel situation, just as a  
23                  general matter, not in particular to this one, is a very -- it  
24                  can be very harsh. The media attention that comes along with  
25                  it, the political motivation and disagreement is so unreal in

1           this particular instance, and so out of whack with what another  
2           case would look like if we didn't have a special counsel, if  
3           this was just the run-of-the-mill DOJ --

4           THE COURT: Whose political motivation?

5           MR. DOWNING: Everybody out there. They're all --  
6           everybody is going nuts over this. Last week it was  
7           unbelievable, the press coverage and what have you. Not here.

8           THE COURT: The press and the commentators?

9           MR. DOWNING: Not here.

10          THE COURT: I want to know if you're saying -- you're  
11         talking about the prosecutor's political motivation --

12          MR. DOWNING: No. No.

13          THE COURT: -- or the political motivation of those  
14         who are assessing what they think of what the --

15          MR. DOWNING: Correct, Your Honor. I'm not directing  
16         this at the Office of Special Counsel. But the media  
17         attention, the media frenzy around this. And it's well  
18         understood; it's a case of national interest. But that results  
19         in a very harsh process for the defendant. And I hope the  
20         Court can consider, unlike other cases which this Court has  
21         sentenced people in, where there is nobody in the gallery,  
22         there is not going to be this torrent of press that comes out  
23         of it and focus on Mr. Manafort and his family, that that  
24         harshness, we would appreciate it if the Court could consider  
25         in sentencing because it has been real. And but for a short

1           stint as a campaign manager and in a presidential election, I  
2           don't think we would be here today. And I think the Court  
3           should consider that, too.

4                 I'll leave it to my colleagues to address the other  
5           issue, Your Honor.

6                 THE COURT: All right. Thank you.

7                 MR. WESTLING: Your Honor, I have a fairly focused  
8           argument related to the money laundering issue in the case.

9                 THE COURT: All right.

10                MR. WESTLING: Mr. Weissmann is correct, there is one  
11           prior case, the *Park* case. I think that just for background,  
12           obviously this fits into sort of the nature of why the  
13           guidelines are where they are; again, not -- I think they're  
14           correctly computed -- but where they might be if we were in a  
15           slightly different situation. And so as the Court probably is  
16           aware, if you go back to the late '90s, early 2000s, there were  
17           substantial amendments to the money laundering guidelines.

18               For many years it was you committed an underlying  
19           offense and then money laundering was sort of tacked on and it  
20           added a whole lot of exposure in that process. What the  
21           sentencing commission did was to look to the need to better tie  
22           the sentences to the underlying offense, with the idea that  
23           money laundering would be a sort of enhancement to that. And  
24           so what they did was they readjusted the guideline and they  
25           said where there is a base offense, you use the base offense

1 level and you add two for the money laundering, and whatever  
2 the additional enhancements are.

3 We're in a situation here that is somewhat the result  
4 of FARA not being all that frequently prosecuted, because there  
5 is no FARA guideline to look at. And so, if the commission had  
6 seen a lot of FARA cases, I suspect they would have promulgated  
7 a FARA guideline. I can't guess for the Court what that level  
8 would be, but based on things like obstruction and other types  
9 of what I would call similar offenses, you might have a base  
10 offense level somewhere in the neighborhood of 14, then add a  
11 couple of levels for money laundering. That would create a  
12 very different scenario for the Court.

13 Again, I'm not bickering with the computation of the  
14 guidelines, simply this unique situation of FARA being the  
15 underlying offense and the impact that no guideline being there  
16 causes you to default to the 2B1.1 schedule.

17 THE COURT: Isn't it the loss amount, not necessarily  
18 whether it's -- I know money laundering had two points that  
19 wouldn't have been there otherwise. But if you've got a  
20 conspiracy to fail to identify foreign bank accounts and to  
21 fail to pay income taxes and you have the dollars that we're  
22 talking about here, wouldn't the loss amount have hiked up the  
23 guidelines no matter what?

24 MR. WESTLING: To some degree.

25 THE COURT: I mean, they did in your calculation,

1                   which was different than the one that the presentence report  
2                   writer came up with.

3                   MR. WESTLING: Understood. But the point I'm making  
4                   really is if you look at 2S1.1(a)(1), it says look to the  
5                   underlying offense and don't use the loss table unless you  
6                   can't find the underlying offense. So there's a default that  
7                   you'll go first to whatever the guideline is; what, I can't  
8                   say, because there isn't one. So I understand that makes this  
9                   difficult, what the FARA guideline would look like. Would it  
10                  include a loss table or not? Many offenses of that type do  
11                  not.

12                  THE COURT: But the conspiracy had other underlying  
13                  offenses which do have loss tables.

14                  MR. WESTLING: It did. And in that case what we  
15                  would be looking at is tax or something else, which would  
16                  clearly drop the level below what it is here. So it's really  
17                  just an observation about the structure of the guidelines that  
18                  create a degree of difficult for the Court, obviously, whenever  
19                  there is not one that is exactly on point.

20                  In this case, where FARA is the, you know, primary  
21                  underlying offense, I think it results in what I believe are  
22                  guidelines that are higher than what we would expect if the  
23                  money laundering statute was able to apply in a traditional  
24                  sense.

25                  In addition to that, Your Honor, we would point out

1       that this is a rare case. And we know there's one other case  
2       where money laundering was involved, the *Park* case, yet it had  
3       other conduct involved that is distinct from FARA by the nature  
4       of bribery and other things. Here the money laundering really  
5       does have a substantial impact on escalating where the  
6       guidelines end up, and we would simply like the Court to  
7       consider that as it fashions its sentence under 3553.

8                     THE COURT: All right. Didn't the guidelines come  
9       out virtually the same place in the Eastern District, even  
10      without money laundering, based on the amount of money involved  
11      in all these bank accounts and tax accounts?

12                  MR. WESTLING: They were very high there, too.  
13       Again, based on the foreign bank account issue, yes.

14                  THE COURT: Thank you.

15                  Mr. Zehnle?

16                  MR. ZEHNLE: Good morning again, Your Honor. I  
17       wanted to address in a very focused way the issue of the  
18       witness tampering that Mr. Weissmann raised.

19                  THE COURT: Can you just scooch up a little bit.

20                  MR. ZEHNLE: Of course. Of course.

21                  THE COURT: Thank you.

22                  MR. ZEHNLE: I wanted to address the witness  
23       tampering issue that Mr. Weissmann raised.

24                  At the end of the day, Your Honor, this Court is  
25       quite familiar with that particular statute. And the point

1       that the defense would like to make is that with respect to the  
2       cases that deal with witness tampering, whether they're trial  
3       convictions or whether they're guilty pleas, in most of those  
4       cases what you have is either bribery of witnesses in order to  
5       get them to say things or not say things, or potential  
6       intimidating or threatening conduct.

7                 Now, of course, the statute is broad enough and it  
8       does cover the conduct that Mr. Manafort pled to. And I think  
9       it's important for the Court to at least consider, in the cases  
10      that are similar under that particular statute, the more  
11      significant sentences, which are usually -- and I can give the  
12      Court a couple cites in a moment -- you know, usually  
13      relatively low, are based upon conduct that I think most people  
14      would agree is more egregious; that is, actually paying  
15      somebody to lie, or actually threatening them to do that.

16                 And as the Court knows, based on the superseding  
17      information, based on the information that the government has  
18      provided, that's all spelled out in terms of exactly what was  
19      done, the texts to the individuals in the -- I can't remember  
20      whether they were Individual 1 or Individual 2, but the Court  
21      knows who we're talking about.

22                 So, in terms of that, we went back and took a quick  
23      look at some more recent cases dealing with witness tampering  
24      under that particular statute. And just for the Court's  
25      consideration, *United States v. Maldonado*, which is 17-CR-620,

1 and that was in the District of Hawaii. That was just in  
2 September of last year. That dealt with a defendant who was a  
3 police officer who stole \$1800 from somebody during a traffic  
4 stop. And after the driver filed a complaint, the defendant  
5 and his cousin tried to bribe that driver in order to influence  
6 him to withdraw the complaint. Now, he was sentenced to 24  
7 months imprisonment in that case.

8 In another case that we found, from December of 2015,  
9 *United States v. Konopski*, K-O-N-O-P-S-K-I, that's 14-CR-6043  
10 in the Western District of New York. That case also dealt with  
11 witness tampering, where the defendant was ultimately sentenced  
12 to six months imprisonment and six months of home detention.  
13 And in that case the defendant confronted an individual that  
14 they believed was cooperating against the defendant's brother,  
15 and they did so in a threatening and intimidating matter --  
16 manner, excuse me, and obtained a false statement.

17 So those were just some of the cases, just to kind of  
18 direct the Court's attention to, when you're dealing with  
19 witness tampering and the various gradations, if you will, of  
20 how did the person actually tamper with the witness?

21 Here Mr. Manafort has admitted to this Court,  
22 September 14th, I believe, the conduct involved with sending  
23 those texts to those individuals. And it dealt with primarily,  
24 as this Court is well aware, the Hapsburg Group. That is the  
25 group that was essentially engaged to seek Ukraine's admittance

1           into the European Union. That's what that dealt with. The  
2       majority of that focus, of that group, was to get Ukraine into  
3       the European Union. Mr. Manafort's admitted, he doesn't deny,  
4       and he's never backed away from the fact that contact and  
5       outreach occurred in the United States and that was a  
6       violation.

7           But it is important to note the factual contact in  
8       which this particular charge came about.

9           THE COURT: All right. Thank you.

10           Mr. Manafort, is there anything you would like to  
11       say, that you want me to consider before I impose sentence in  
12       this case? And you're welcome to use -- there's a live  
13       microphone at your table there.

14           THE DEFENDANT: Thank you, Your Honor. In my  
15       previous allocution, I told Judge Ellis that I was ashamed at  
16       my conduct that brought me into his court, and to this day of  
17       judgment as well. For that I said I took full responsibility.  
18       Apparently at that time I was not as clear in saying what was  
19       in my heart, so I want to say to you now that I am sorry for  
20       what I've done and for all the activities that have gotten us  
21       here today.

22           The last two years have been the most difficult years  
23       that my family and I have ever experienced. The person who I  
24       have been described as in public and in this courtroom is not  
25       somebody who I recognize. While I know that I am not that

1           person, I still feet ashamed and embarrassment for the  
2           suffering that I have caused to my family, to my friends, and  
3           to all that have been affected by my behavior.

4           Let me be very clear, I accept the responsibility for  
5           the acts that have caused me to be here today. Further, I want  
6           to apologize for all that I did that contributed to these  
7           actions and to the effects that have been brought to both  
8           people and institutions.

9           While I cannot undo the past, I can ensure that the  
10          future will be very different. And I stand here today  
11          committing to you this: I am especially upset at the pain that  
12          I have caused my family. If nothing else, the suffering will  
13          be a major deterrent to me in any future behavior of mine.

14          As I have sat in solitary confinement for the past  
15          nine months, I have reflected on the life -- on my life and  
16          what is important to me. And I can see that I have behaved in  
17          ways that did not always support my personal code of values.  
18          I'm upset with myself for these failures and understand that  
19          many of these mistakes are what have gotten me here today.

20          Because of this new self awareness, I can say to you  
21          with conviction that my behavior in the future will be very  
22          different. I have already begun to change, and I'm confident  
23          that the lessons of the past two years, and specifically of the  
24          last nine months, will be a guide for my future.

25          What has been uplifting to me during this crisis is

1       the incredible support I've received, not just from family and  
2       friends, but also from many strangers. I've been strengthened  
3       by their letters that I've received from them and they have  
4       affected me in a very positive way, especially their prayers  
5       and encouragement. This exposure to the goodness of people has  
6       had an energizing impact on my life already and has given me  
7       the ability to cope with the difficulties that I've had to deal  
8       with in solitary confinement. Their encouragement has focused  
9       me on how I want to conduct my life when this ordeal is over.

10           I stand here today to assure the Court that I'm a  
11       different person than the one who came before you in October of  
12       2017. I have had the time to reflect on my life and my choices  
13       and the importance of family and friends. My reflections have  
14       instilled in me a commitment to turn the notoriety of the past  
15       two years into a positive and to show the world who I really  
16       am. I see more clearly now both myself and my life, both my  
17       past and my future. I can assure you that I feel the pain from  
18       these reflections and I know that it was my conduct that  
19       brought me here today. For these mistakes I am remorseful.  
20       With the power of prayer that God's guiding -- and God's  
21       guiding hands, I know that my family and I will emerge stronger  
22       from the suffering, and I look forward to setting forth on that  
23       journey.

24           Again, I apologize to all who have been negatively  
25       affected from my behavior. I take responsibility for the

1       consequences of these actions, and I pledge to do all I can to  
2       accelerate the healing process. Your Honor, I will be 70 years  
3       old in a few weeks. My wife is 66 years old. I am her primary  
4       caregiver. She needs me and I need her. I ask you to think of  
5       this and our need for each other as you deliberate today.

6                 This case has taken everything from me already; my  
7       properties, my cash, my life insurance, my trust account for my  
8       children and my grandchildren, and even more. Please let my  
9       wife and I be together. Please do not take away from -- us  
10      from each other any longer than the 47 months imposed last  
11      week.

12               I appreciate the time that you have committed to this  
13      case and ask that you find compassion in your sentencing, if  
14      not for me, then for my family. I promise you that if you do,  
15      you will not regret it. Thank you.

16               THE COURT: Thank you. At this point I'm going to  
17      take a brief break so that I can absorb everything that I've  
18      heard, some things that I've heard today for the first time.  
19      You can all remain seated. I expect that we'll resume at about  
20      10 after, maybe quarter after 11. So I'll be back at that  
21      time. Thank you.

22               (Recess.)

23               THE COURTROOM DEPUTY: Your Honor, recalling criminal  
24      case number 17-201-1, the United States of America v. Paul J.  
25      Manafort, Jr.

1                   THE COURT: The briefing, and to a lesser extent the  
2 argument this morning in this case, has been marked by a great  
3 deal of passion and a fair amount of hyperbole and  
4 overstatement on both sides. This defendant is not public  
5 enemy number one, but he is not a victim either.

6                   I also want to make clear from the start that the  
7 conclusion of this particular prosecution with the imposition  
8 of sentence today will not be a vindication of and will not  
9 incriminate anyone who is involved in or the subject of the  
10 ongoing investigation by the Office of Special Counsel.

11                  Notwithstanding the many references that pepper the  
12 sentencing memo, the question of whether there was or was not  
13 any coordination or conspiracy or any collusion between anyone  
14 associated with the presidential campaign and anyone in Russia  
15 was not presented in this case. Period. Therefore, it was not  
16 resolved one way or the other by this case.

17                  Also, this sentence will not be an endorsement or an  
18 indictment of the mission or the tactics of the Office of  
19 Special Counsel. That question is not before the Court either.  
20 Nor does it fall to me today to pass judgment on Paul Manafort  
21 as a human being, or to decide, as his daughter asked me to, if  
22 he is worthy of forgiveness under God. His life is not over  
23 and he's going to have the opportunity to make something  
24 positive out of this, as he's suggested he's going to do, and  
25 that's a question left for a higher authority at another time.

1                   The issue today is what is the appropriate sanction  
2                   in this world for certain things he did, deliberately, over a  
3                   considerable period of time and in violation of a number of  
4                   federal laws.

5                   As I stated earlier, Congress passed a statute that  
6                   tells judges what they're supposed to think about when they  
7                   sentence someone. And as my court reporter and anyone who's  
8                   been here before can tell you I do in every case, I'm going to  
9                   go through each of those sentencing factors.

10                  The first factor set out in the statute is the nature  
11                  and circumstances of the offense. And I think the government's  
12                  sentencing memorandum summed it up well when it said it is  
13                  undisputed that he was part of a conspiracy that involved money  
14                  laundering involving millions of dollars of his income being  
15                  wired from offshore accounts for goods, services, and real  
16                  estate. He concealed that income and the related purchases and  
17                  the offshore accounts themselves.

18                  He hid millions of dollars of other income by falsely  
19                  characterizing it as loans. He lied to his bookkeeper and tax  
20                  preparers, both about the payments from overseas and the  
21                  existence of the bank accounts from which the money was  
22                  transferred. He engaged in extensive lobbying activities in  
23                  the United States on behalf of Ukraine without registering for  
24                  this work as required. He funneled over \$11 million from the  
25                  overseas accounts to pay for other lobbyists working for

1 Ukraine to engage in unregistered lobbying in the United  
2 States. And in submissions to the Department of Justice in  
3 November 2016 and February 2017, he caused false and misleading  
4 statements to be made relating to the lobbying work for the  
5 Ukraine.

6 It is hard to overstate the number of lies and the  
7 amount of fraud and the extraordinary amount of money involved.  
8 As the prosecutor said, 30 offshore accounts, three foreign  
9 countries. And there is no good explanation that would warrant  
10 the leniency requested. This is not just a failure to comport  
11 with some pesky regulations, as the defense would make it out  
12 to be. The defendant hid the proceeds of his international  
13 lobbying work from the United States, from the American people  
14 who pay their share of taxes so that the government, the  
15 military, the national security apparatus, the veterans  
16 hospitals and all of the other functions that ordinary people  
17 rely on, can operate. And he thereby cheated the U.S. treasury  
18 out of over \$6 million in tax revenue. Why? Not to support a  
19 family, but to sustain a lifestyle at the most opulent and  
20 extravagant level possible. More houses than a family can  
21 enjoy, more suits than one man can wear.

22 It is important to note, in case there's any  
23 confusion, notwithstanding the use of the word "agent," an  
24 unregistered foreign agent is not a spy. He is a lobbyist.  
25 Lobbying is not illegal. Being paid to do it, even on behalf

1       of clients who others might view as unseemly or odious or even  
2       tyrannical is not illegal, if you follow the laws that govern  
3       foreign financial transactions and pay your taxes. But this  
4       defendant kept his money offshore and under wraps so he  
5       wouldn't have to pay.

6                  And the government memorandum makes clear that the  
7       tax conspiracy and the failure to file foreign bank account  
8       reports is the very conduct underlying some of the convictions  
9       in the Virginia case. The government used the same charts and  
10      the same exhibits to tell the story. And I agree with the  
11      defense that he cannot be sentenced for those components twice.  
12      He's already been sentenced for that. And there's going to be  
13      a significant forfeiture for that as well; not just to punish  
14      him, but restitution because money is owed.

15                 So what remains to be considered here? According to  
16      the defendant, it's just an administrative matter, a regulatory  
17      crime, a violation of the Foreign Agent Registration Act. And  
18      that's not a fair description. He was hiding the truth of who  
19      he represented from policymakers and the public, and that's  
20      antithetical to the very American values that he told me he  
21      championed. And this was after he knew and already had been  
22      warned not to do it.

23                 What becomes clear from this record is that  
24      defendant's approach in his career, and what he didn't abandon  
25      even after he was indicted, was that it's all about strategy,

1 positioning, public relations, spin. And you could say, well,  
2 there's nothing wrong with that, at least if you're not a  
3 journalist. But there is something wrong with it if you're not  
4 simply advancing a position as part of a PR campaign.

5 It's okay to say: Members of Congress, the  
6 government of the Ukraine, President Victor Yanukovych, would  
7 like you to consider the following when you consider how to  
8 respond to his actions, when you determine what the foreign  
9 policy of the United States should be. But what you were doing  
10 was lying to members of Congress and the American public,  
11 saying, look at this nice American PR firm, look at this nice  
12 U.S.-based law firm, look at this nice group of prominent  
13 former European officials, isn't it great how they've all  
14 voluntarily stepped forward to stand up for Yanukovych and the  
15 new administration, when all along you were hiding that you and  
16 the Ukrainians actually had them on the payroll.

17 This deliberate effort to obscure the facts, this  
18 disregard for truth undermines our political discourse and it  
19 infects our policymaking. If the people don't have the facts,  
20 democracy can't work.

21 Furthermore, this conduct is not, as the defendant  
22 would have me conclude, old news. It's not just some ancient  
23 failure to comply with a couple of regulations, something that  
24 took place so long before the campaign it's just unfair and  
25 inappropriate to charge him for it in 2017.

1                   He pled guilty to laundering of funds through 2016.  
2                   He pled guilty to a lobbying campaign in the United States for  
3                   the government of Ukraine, Victor Yanukovych, and when he was  
4                   out of office, his Party of Regions and the Opposition Bloc  
5                   from 2005 to 2015. And the defense says, well, yes, but the  
6                   government investigated and wrapped it all up and there  
7                   wouldn't have been a prosecution but for the appointment of the  
8                   special counsel.

9                   I'm not exactly sure what that prediction -- which  
10                  they've made to me repeatedly -- is actually based on. I don't  
11                  believe there is evidence that a formal final determination was  
12                  made. Prior to the time when anybody was even thinking about a  
13                  special counsel, the Department of Justice was already looking  
14                  into this matter. And when the Department of Justice -- not  
15                  the Office of Special Counsel -- was looking into the matter,  
16                  it asked Mr. Manafort questions. He lied to his own lawyers  
17                  and he lied to the Department of Justice. He had them submit  
18                  not one, but two letters, falsely stating that he had not  
19                  performed lobbying activities in the United States on the part  
20                  of the Ukraine.

21                  That first lie was in November of 2016, after he  
22                  resigned as campaign chair but well before the appointment of  
23                  the special counsel. The second, in February, was after the  
24                  special counsel investigation was underway. So it's not  
25                  entirely clear that a civil resolution would still have been

1 possible at that point.

2 And this disregard for facts, this "I'm just going to  
3 manage this, I'm just going to spin this" attitude has  
4 continued throughout the pendency of this case and it prompted  
5 Count 2, the witness tampering conspiracy, which is also part  
6 of the nature and circumstances of this offense.

7 Immediately after the superseding indictment was  
8 returned and it became clear that the effort by the Hapsburg  
9 Group was going to be involved, the defendant immediately began  
10 reaching out to witnesses involved with the lobbying effort by  
11 the Hapsburg Group to remind them that all the work was done in  
12 Europe. And he pled guilty, for which he deserves credit, but  
13 he isn't being straight with me about it now.

14 In the sentencing memorandum the defendant  
15 acknowledges and repeats several times that he, quote,  
16 contacted, close quote, witnesses. He was not stepped back for  
17 contacting witnesses, that's not a crime. He didn't plead  
18 guilty to contacting witnesses. He pled guilty to the crime of  
19 conspiracy, which means agreeing with someone else, in this  
20 case Konstantin Kilimnik, to violate the law. He pled guilty  
21 to conspiring to corruptly persuade another person, two people,  
22 with the intent to influence their testimony in an official  
23 proceeding. And which official proceeding? This one. The  
24 case against Mr. Manafort himself.

25 I do want to say and point out again that no other

1 interactions involving Mr. Kilimnik are before the Court today  
2 for sentencing or bear on his sentencing. The message that  
3 Mr. Manafort himself sent to a critical witness regarding the  
4 role of the Hapsburg Group was, We should talk. I've made it  
5 clear, they worked in Europe. The same message was echoed by  
6 his co-conspirator, Mr. Kilimnik; Paul is trying to reach that  
7 same witness. Basically, Paul wants to give him a quick  
8 summary, that he says to everybody, which is true, that our  
9 friends never lobbied in the U.S. and the purpose of the  
10 program was the EU. That, of course, was not true. And no,  
11 the problem was not contacting witnesses.

12 So the sentencing memorandum gave me concern that he  
13 really hasn't accepted responsibility for that offense. And  
14 this came up recently during the hearing regarding the breach  
15 of the plea agreement. I did say, as Mr. Zehnle has correctly  
16 pointed out, that I could not find that the Office of Special  
17 Counsel had proved that his similarly whitewashed or  
18 sugarcoated recitation of what Mr. Kilimnik did during his  
19 debriefings was a deliberate falsehood because all I have is  
20 the FBI 302. I couldn't tell what the question was you had  
21 asked and that he was answering. So I couldn't tell from that  
22 piece of paper alone whether he was asserting false facts or  
23 merely parrotting false facts that Mr. Kilimnik was saying now.  
24 But the fact that then he turned around and advanced a similar  
25 version in the sentencing memo now suggests that it was all of

1           a piece. While he agreed to plead guilty to this count, he's  
2 backed away from the facts.

3           And he didn't only try to influence witnesses. The  
4 dissembling in this courtroom began with the bond proceedings  
5 and it never abated. Mr. Manafort had significant assets and  
6 we tried mightily to secure his bond before this Court so he  
7 could be released from home detention. I issued several orders  
8 actually trying to do that.

9           In the first presentation he said, we have these  
10 funds in an account, my wife will be the surety, the money will  
11 be safe. And then I said, okay, fine, then let's put it in an  
12 account where only she has access, you don't have access to it.  
13 And then it was, oh, never mind, I don't want to do that. Then  
14 it was, okay, well, you can have this property, this property  
15 will be great security for my bond. And then it turned out  
16 that property had already been promised to a bank as security  
17 for a loan to the bank. And he said to me, and had a lawyer  
18 write to me that, no, the bank had agreed that it would take it  
19 last, it wasn't really going to take that house if it needed to  
20 to secure its own loan. And they provided me with all the loan  
21 documents and it wasn't in there. It wasn't true.

22           All this appeared to reflect as ongoing contempt for  
23 and his belief that he had the right to manipulate these  
24 proceedings, and the Court orders and the rules didn't apply to  
25 him.

1                   He has now admitted that he engaged in attempts to  
2 influence the depiction of this case in the media, himself and  
3 through his representatives, in direct contravention of a court  
4 order. That was not why he got stepped back. I didn't know it  
5 then, but it's certainly worthy of consideration now.

6                   And he's been less than candid about the conditions  
7 of his confinement and made overblown statements about where he  
8 was housed when he thought it was to his advantage to do so.

9                   The hearing on the alleged breach of the plea  
10 agreement suggested that he was trying to get the benefit of  
11 the plea without the obligation, to get the government  
12 interested in a cooperation deal before the plea with a  
13 proffer, and avoid the costs and the risks of a trial and cap  
14 his exposure. But then he began to minimize his conduct and to  
15 shield others in ways that I have found were intentionally  
16 false. And it's all very problematic to me because court is  
17 one of those places where facts still matter.

18                  The second thing that the sentencing statute tells me  
19 I'm supposed to consider is the history and characteristics of  
20 the defendant. Paul Manafort is an educated, accomplished man  
21 with a loving family. He has no prior convictions. And that  
22 is a factor to be considered. I have to balance that against  
23 the fact that the criminal conduct involved in this case was  
24 not an isolated, single incident. It went on for a  
25 considerable period of time. It involved many years' worth of

1           false tax returns and filings that weren't filed, and there  
2           were many crimes involved.

3           He was convicted in Virginia of five counts of making  
4           false statements on his tax returns in five different years;  
5           2010, 2011, 2012, 2013, 2014. He was convicted in Virginia of  
6           failing to file the foreign bank account report in 2012, but he  
7           admitted under oath to me that he also failed to do it in 2011,  
8           2013, 2014. He's convicted of two counts of bank fraud and  
9           admitted the others. All in all, he defrauded four different  
10          lenders in five separate loan transactions, and there was  
11          evidence that he was discussing helping a bank officer secure a  
12          job in the administration in return for averting his eyes from  
13          the known false representations.

14           So this supports the notion that a significant  
15          portion of his career has been spent gaming the system. It is  
16          true and it is important that these offenses don't involve  
17          violence. And, yes, while the government wasn't bound by his  
18          promise to ask for this, he does get some credit for  
19          cooperation. He did plead guilty. He did sit for many  
20          sessions and answer many questions. There's no claim that he  
21          lied about everything important, and some of the information he  
22          provided the government is relying on in its sentencing came  
23          from him.

24           But the problem is that the defendant's own conduct  
25          makes it impossible to assess the value of the information he

1 did provide because his lies about material matters undermine  
2 his reliability as a source of information about anything else.  
3 The prosecutors may not have documents about everything, so how  
4 can they know now if Mr. Manafort, who they were relying upon  
5 to fill the gaps, was being truthful when they talked to him or  
6 he wasn't? It's also problematical that what he had to say  
7 about others became less incriminating after the proffers and  
8 after the plea. So, was he spinning the facts beforehand to  
9 get a good deal? Or was he spinning them after to protect  
10 other people? I don't know.

11 I read the letters from his friends and family. I  
12 want to say that I don't discount them just because he came --  
13 they came from his friends and family. It's not true that  
14 everyone has people standing so firmly in their corner. And  
15 the letters are detailed and they're heartfelt and they provide  
16 specific examples that ring true.

17 I don't doubt their sincerity and I don't doubt the  
18 fact that I haven't seen everything there is or can be to Paul  
19 Manafort. I believe he was sincere when he told me today how  
20 important they are to him, and the fact that it pains him to  
21 cause them to suffer.

22 He's been a significant course of support within his  
23 family. He was stalwart and unfailingly reliable and  
24 supportive when his wife suffered a serious injury, and even  
25 earlier he supported her determination to get a law degree and

1       a career. He stepped up in extraordinary ways to serve as a  
2       surrogate father for a niece who lost her own father, and there  
3       were testaments to his generosity in other situations, his  
4       efforts to assist his brother to make the difficult return to  
5       sobriety. All of this, and other charitable and philanthropic  
6       activities that were brought to my attention, are a part of his  
7       character and they are commendable.

8                  And it is unfortunate, as he's pointed out, that  
9       incarceration can tear apart a family and separate him from  
10      people who need him. But that is true in every case where  
11      someone is incarcerated. And at least in this case it is a  
12      family that has the means to sustain itself in the interim.

13                 The sentencing memorandum also states: Mr. Manafort  
14      has spent his life advancing American ideals and principles.  
15      It starts with his work on numerous political campaigns and  
16      positions within some of the administrations, and it goes on to  
17      say during his years outside of government service,  
18      Mr. Manafort also worked with world leaders. He has spent a  
19      lifetime promoting American democratic values and assisting  
20      emerging democracies to adopt reforms necessary to become a  
21      part of Western society.

22                 At times he interacted with politicians and business  
23      people in emerging countries to assist in the development of  
24      American beliefs of equal justice, human rights, and free  
25      markets. There aren't really any exhibits or letters that go

1 along with that, so I don't have the facts or the record before  
2 me that would permit me to either accept or question what is a  
3 very general description. It will fall to others in other  
4 settings to assess whether the way the defendant chose to  
5 market the access he gained during political campaigns and the  
6 work he did for the clients he represented has been  
7 characterized accurately. So it doesn't factor into my  
8 consideration of the history and characteristics of the  
9 defendant.

10 He does, though, appear to have brought intelligence,  
11 real skill, organization, and structure to the latest U.S.  
12 campaign he was asked to step in and run, and to others. And  
13 those talents are valued in our political system. But the fact  
14 that he has enormous experience and talent and the capacity to  
15 uses it in so many constructive ways makes his dissembling at  
16 every turn to serve the purposes of enriching himself and  
17 frustrating both the investigation and prosecution all the more  
18 troubling.

19 It may have been that in addition to thinking of his  
20 own finances, he had his clients' ability to win in mind. He  
21 knew that revealing the true source behind the lobbying  
22 activities would have made those activities ineffective and  
23 unsuccessful, as the prosecutor said. Secrecy was integral.  
24 But that willingness to win at all costs was contrary to laws  
25 designed to ensure transparency in the political process and

1           the legislative process. So it cannot possibly justify the  
2       behavior, particularly when there's no question that this  
3       defendant knew better and he knew exactly what he was doing.

4           I do appreciate the comments that were made this  
5       morning. But I have to say, it was very striking to me that he  
6       had his friends and family write -- or maybe he didn't ask  
7       them, maybe they wrote on their own accord, but they wrote --  
8       and this person who made his living with words and whose  
9       multiple advanced degrees have been detailed in his submission,  
10      was strangely silent.

11           I've had defendants who didn't finish high school,  
12       whom English was a second language, who managed to write me a  
13       letter and express remorse about something. The comments  
14       today, at least in part, seem to have been prompted by comments  
15       made after the last sentencing hearing. And prior to this  
16       morning, the upshot of this defendant's entire sentencing  
17       presentation was, Look what they've done to me. The element of  
18       remorse and personal responsibility were completely absent.

19           Not once in his submission did he even admit to the  
20       possibility that he brought any of this upon himself, when in  
21       fact he has no one else to blame. He even had a plea agreement  
22       in which the special counsel agreed to bring his cooperation to  
23       my attention and to ask for a lesser sentence, and he  
24       squandered it.

25           What the defense tells me is that because the special

1           counsel got involved, what was a mere administrative inquiry  
2           about missing paperwork was quote, transmogrified, close quote,  
3           into a multiple-count, excessive indictment. To the extent  
4           that is the appropriate verb, if one were to insist on its  
5           having a subject in that sentence, it would have to be the  
6           defendant who was the transmogrifier.

7           I don't mean to suggest for a second that sentencing  
8           was not the time to mount a vigorous defense. That was your  
9           job and your lawyer's job. There was a lot that this defendant  
10          mentioned that was properly included in his sentencing  
11          submission. Sentencing is an individual exercise. And his age  
12          and medical condition were important and needed to be brought  
13          to my attention. And there's a lot that can be said about the  
14          guidelines and the draconian multiplying effect of the loss  
15          table.

16           But this defendant chose to place his emphasis  
17          elsewhere. And his core argument, echoed by Mr. Downing this  
18          morning, was that, quote, but-for, close quote, the special  
19          counsel investigation he wouldn't have been charged in the  
20          first place. And that argument falls flat.

21           It is certainly not unusual that investigators  
22          uncover crime X when they're looking into crime Y. And the  
23          perpetrators who get uncovered that way do not get a pass.  
24          Saying I'm sorry I got caught is not an inspiring plea for  
25          leniency.

1                   First of all, it's entirely irrelevant to the  
2 question before the Court, which is what sanction is  
3 appropriate for the conduct he knowingly and willfully and  
4 repeatedly engaged in, in violation of many criminal statutes.  
5 And the number of times the argument was repeated,  
6 notwithstanding the fact that it didn't have any bearing on the  
7 question at hand, suggests that it wasn't being repeated for  
8 the benefit of the person you were trying to persuade he had  
9 accepted responsibility, but it was being repeated for some  
10 other audience.

11                  So I probably don't need to say too much about it,  
12 but I do want to add that the second problem with the argument  
13 is that it's not supported by the record. The DOJ  
14 investigation into Ukrainian lobbying was well under way before  
15 the special counsel was appointed. I dealt with this in detail  
16 in the order denying the motion to dismiss. And it wasn't the  
17 special counsel's fault that the defendant chose to lie to the  
18 Department of Justice again, even after the special counsel had  
19 been appointed.

20                  The sentencing memo also includes a dramatic  
21 paragraph about the execution of the search warrant, armed  
22 agents who arrived at the house in the early morning hours and,  
23 quote, searched high and low, close quote. It echoes public  
24 statements made at the time about agents breaking into the  
25 home. But when I asked you specifically in court if you had

1       any legal challenge to the manner in which the search was  
2       conducted, the defense said no.

3                 Also, the entire defense team knows perfectly well  
4       that the tactic of using search warrants in white collar  
5       criminal cases, certainly in the Eastern District of Virginia,  
6       but also at other offices and at Main Justice, while it could  
7       be the legitimate subject of a very fruitful policy discussion,  
8       absolutely do not start with the special counsel or with Paul  
9       Manafort, but has been an arrow in the government's quiver for  
10      quite some time.

11                 Finally, the no-collusion refrain that runs through  
12      the entire defense memorandum is, similarly, unrelated to the  
13      matters at hand. The defense told me over and over, quote,  
14      importantly, close quote, or, quote, it is notable that, close  
15      quote, the defendant has not been charged with any crimes  
16      related to the primary focus of the special counsel's  
17      investigation. At one point he added an entirely  
18      unsubstantiated causal link to the theme. Quote, in October  
19      2017, unable to establish that Mr. Manafort engaged in any  
20      Russia collusion, the special counsel's office charged  
21      Mr. Manafort with crimes that did not relate to his work on the  
22      2016 presidential campaign, close quote. And the memorandum  
23      suggests, without foundation, that the individuals who received  
24      relatively short sentences for lying during the investigation,  
25      individuals who admitted it quite early, pled guilty, and lied

1       about a narrowly circumscribed set of facts, received those  
2       sentences because, as the defense put it, quote, Courts  
3       recognize that these prosecutions bear little or no relation to  
4       the special counsel's core mandate of the investigation  
5       allegations that the Trump campaign colluded with the Russian  
6       government to influence the 2016 election, close quote. It's  
7       hard to understand why an attorney would write that.

8                  That sentence, like the others, has no citation  
9       following it because not one of the judges involved stated at  
10      the time they imposed sentence that they considered that to be  
11      a factor in their sentencing decisions. The no-collusion  
12      mantra is simply a non sequitur that doesn't bear on the  
13      question of the appropriate sentence. And it's not clear  
14      whether it's even accurate, since the investigation is as yet  
15      unfinished and no report has been issued. It's also not  
16      particularly persuasive to argue that an investigation hasn't  
17      found anything when you lied to the investigators.

18                  It is true to say this much: This defendant has not  
19      been charged with any offense related to the election and he is  
20      not being sentenced for any offense related to the election.  
21      And, therefore, defendant's argument about the Russian  
22      investigation is not going to affect my sentence, except in one  
23      respect: The defendant's insistence that none of this should  
24      be happening to him, that the government had no right to  
25      investigate him or charge him, and that the prosecution is

1                   misguided and excessive and invalid, after this Court and the  
2                   Court in the Eastern District of Virginia both found that he  
3                   fell squarely within the special counsel's mandate, is just one  
4                   more thing that's inconsistent with the notion of any genuine  
5                   acceptance of responsibility.

6                   The sentencing statute tells me that the Court is  
7                   required to impose a sentence that's sufficient but not greater  
8                   than necessary to accomplish the purposes set out in the  
9                   statute. And it lists a number of purposes. I have to reflect  
10                  the seriousness of the offense, to promote respect for the law,  
11                  to provide just punishment for the offense. I have to afford  
12                  adequate deterrence to criminal conduct by this defendant and  
13                  other people. I'm supposed to protect the public from further  
14                  crimes by this defendant, and provide the defendant with  
15                  education or vocational training or medical care or other  
16                  correctional treatment in the most effective means possible.

17                  I'm not sure we've fully reflected the seriousness of  
18                  the offense, imposed punishment for all the wrongdoing  
19                  involved, and we still have a way to go to see something that  
20                  looks like respect for the law.

21                  With respect to protecting the public from the  
22                  defendant and the government argument that I need to be  
23                  concerned about deterring him and recidivism, I agree with the  
24                  defense that that goes a bit too far. The defendant's  
25                  reputation and his business and financial wherewithal are in

1 tatters. It's not through anyone's fault but his own. But  
2 here, his age and the forfeiture and the punishment that have  
3 been exacted combine to make future illegalities seem  
4 relatively unlikely.

5 With respect to just punishment, the defense has  
6 urged me to conclude that he's been punished enough. And it is  
7 true that he's been confined since June of 2018. And he  
8 definitely should, and the Eastern District of Virginia  
9 sentence has already ensured that he will receive credit for  
10 the time he's already served. But the other recurring theme  
11 about his punishment, the solitary confinement, requires  
12 context and clarification because it's not the first time that  
13 that note has been struck in this case.

14 He is at the Alexandria Detention Center now, but how  
15 did he get there? This Court revoked his bond in June based on  
16 a finding that there was probable cause to believe that while  
17 he was on court supervision he attempted to obstruct justice  
18 and interfere with witnesses. The D.C. Circuit upheld that  
19 finding. And he's since specifically admitted to doing that  
20 under oath when he pled guilty. He was not locked up for  
21 violating the media contact order. He was unquestionably  
22 lawfully detained. And then a U.S. marshal, and not the Court,  
23 made the decision about where he should be placed.

24 He was awaiting trial in the Eastern District of  
25 Virginia at that time. The marshal there selected Northern

1       Neck Regional Jail. That would have been one of the options  
2       for our marshal also. The other would have been D.C. jail.

3                   Northern Neck, in my view, presented real concerns  
4       about the ability to confer with counsel and get ready for what  
5       were then two upcoming trials. But before anybody presented  
6       that issue to me for action, the defendant presented it to the  
7       Court in the Eastern District of Virginia in early July. He  
8       complained that given the distance from the District,  
9       restrictions on electronic and phone communications, there was  
10      a severe impact on his ability to prepare for trial and review  
11      documents.

12                  He also attached a brief in which he told the D.C.  
13       Circuit, when he challenged my order, that he was in solitary  
14       confinement, locked in his cell 23 hours a day. The Court in  
15       the Eastern District of Virginia made the decision to promptly  
16       alleviate those concerns by ordering -- not just  
17       recommending -- that he be housed in the Alexandria jail.

18                  Defendant realized that the tactic had backfired  
19       immediately and turned around the same day and said never mind,  
20       we respectfully ask the Court to permit me to remain at the  
21       Northern Neck Regional Jail. It became clear why, when the  
22       government filed its pleading that said, yes, he was housed by  
23       himself, but he was housed in a private, self-contained living  
24       unit in Northern Neck that included its own bathroom, shower,  
25       phone, laptop, and access to a separate work room for review of

1 material. And the defense, in its reply, conceded that the  
2 government had not misrepresented the conditions, other than  
3 disputing whether he was able to send email.

4 I'm not going to split hairs over whether the word  
5 "solitary" was technically accurate because he had a room of  
6 his own. But the facts about what the true nature of the  
7 detention was are not in dispute. And it was this  
8 disingenuousness on the part of the defense and the attempt to  
9 garner public sympathy by repeating the term over and over  
10 again that played a key role in how he got to Alexandria. And  
11 I think it's more spin and more lack of candor that has  
12 characterized the relationship with the Court since day one.

13 Once he got to Alexandria there have been no  
14 complaints lodged with me regarding his confinement or his  
15 access to or the quality of his medical care. No official  
16 information had been provided to me by the defendant concerning  
17 his classification, but he noted frequently in his submission  
18 that he was in solitary confinement, solitary confinement. So  
19 I asked the presentence report writer to find out what the  
20 situation was so I would have a complete and fair understanding  
21 of it. And at bottom, the defendant was not in the SHU.

22 I understand now that he is in protective  
23 confinement. It is true that his cell is not shared, it has a  
24 single bunk, it has a window, radio, newspapers, and view of  
25 the television. It is true that he's released for only a few

1       of his waking hours every day out of that confinement to walk  
2       around and be with other people. But the reason he's not being  
3       released to mingle with the other 50 people in the general  
4       population of a general local pretrial detention facility, a  
5       jail, is so that he will only be with a smaller, more  
6       restricted group of people for his own safety. So I'm not sure  
7       what all that was about.

8                   Mr. Manafort, I don't want to belittle or minimize  
9       the discomforts of prison for you. It is hard on everyone;  
10      young and old, rich and poor. I also don't question the  
11      representation that you've experienced flare-ups of the gout  
12      that you were diagnosed as having before and that the symptoms  
13      have worsened during your incarceration. But not one doctor's  
14      letter or medical record has been given to me so I don't know  
15      what to make of it. I don't know how to understand what the  
16      connection might be between the confinement and the  
17      exacerbation of your symptoms, but I hope that you've  
18      researched the quality of care before making a recommendation  
19      about where you should be designated, which I expect the  
20      defense will make at some point.

21                  The other thing the sentencing statute tells me I'm  
22      supposed to do is I'm supposed to avoid unwarranted sentencing  
23      disparities among defendants with similar records who have been  
24      found guilty of similar conduct. With respect to sentencing  
25      disparities, the defense points primarily to other regulatory

1 cases. But those involve, ordinarily, just a plain failure to  
2 register, or a plain failure to reveal a foreign bank account.  
3 They're not analogous. They don't involve, as here, a failure  
4 to register -- to hide the existence of -- multiple foreign  
5 bank accounts for the purpose of laundering millions of  
6 dollars, shielding millions of dollars from the IRS.

7 But I do agree with the defendant that a guideline of  
8 19 to 24 years, which -- I'm sorry, I do agree with the  
9 defendant that the recommended guideline range of 19 to 24  
10 years that he was facing in Virginia and he would have faced  
11 here if the sentence hadn't been capped at five years on each  
12 count overstates the seriousness of this offense.

13 The U.S. sentencing guidelines go up dramatically  
14 with the amount of money involved. I don't have to vary from  
15 the guidelines here because the guidelines exceed the maximum  
16 that I can impose anyway. But there is authority in *Kimbrough*  
17 *versus United States*, 522 U.S. 85, and other cases that would  
18 even permit me to depart based on a policy disagreement with  
19 the Commission alone.

20 It's also true that the tax counts and the foreign  
21 bank account report aspects of this case have already been  
22 sentenced. And I can't and won't sentence him twice for that.

23 So what sentence did he receive there for conduct  
24 that is also embraced in the charges here? Counts 1 through 5  
25 in the Eastern District of Virginia, filing false tax returns

1       in connection with money earned for his work as an agent for  
2       the Ukraine, he was sentenced to 24 months each.

3                  Count 12, failure to file foreign bank account report  
4        in connection with money earned for his work as an agent in  
5       Ukraine, he was sentenced to 30 months. So that's up to 30  
6       months' worth of his sentence has been based on overlapping  
7       conduct.

8                  Counts 25 and 27 were the bank fraud convictions,  
9        involving loans from banks that are not relevant conduct to the  
10      offense of conviction here. That was where he got the 47  
11      months, and then the Court ran them all concurrent to one  
12      another for 47 months.

13                 Since the bank fraud, even if it is mentioned in the  
14      pleadings in this case, is not an overlapping count, I do not  
15      need to make my sentence concurrent to the entire 47 months  
16      sentence from Virginia. But I believe I am bound to do so with  
17      30 months.

18                 Pursuant 5G1.3(b), I find that any sentence I impose  
19      for Count 1 must be concurrent with 30 months of the Virginia  
20      sentence because that's the extent of the overlap.

21                 So what's left to me? I've got the regulatory FARA  
22      piece of Count 1 and the money laundering. And I don't believe  
23      that's covered by the Eastern District sentence and I think it  
24      has to be addressed. As I noted earlier, it's not a mere  
25      oversight, it's not a missing piece of paper. To the extent it

1       could or should have been treated as a mere administrative  
2       matter, I think the defendant forfeited being able to rely on  
3       that sort of discretion on the part of law enforcement by  
4       having his lawyer lie to the Department of Justice twice on his  
5       behalf.

6                 I do note that the Eastern District of Virginia found  
7       30 months to be an appropriate sentence for the other single  
8       regulatory disclosure violation. And here, it wasn't just a  
9       single failure to register; the defendant prevailed upon others  
10      in the scheme not to register either, and he admitted under  
11      oath at the plea that he caused them not to register.

12               Plus, we have the money laundering, which is a  
13       separate offense, which hasn't been covered yet. And there's  
14       Count 2, obstruction of justice, which hasn't received any  
15       consideration yet at all.

16               It is an entirely separate offense. It's an attempt  
17       to undermine the integrity of these proceedings and it warrants  
18       a separate consecutive sentence. That being said, I do have to  
19       think about what sentence would be appropriate in a situation  
20       where, yes, there was a corrupt attempt to persuade, but there  
21       were no threats, there were no payments, there was no harm to  
22       witnesses.

23               The effort was largely nipped in the bud by the  
24       witnesses themselves, who recognized the outreach for exactly  
25       what it was, and it ended there. So there is some time due for

1           that offense, but I believe the full five years on that count,  
2           which doesn't include any other conduct, would be greater than  
3           necessary to serve the purposes of a criminal sentence.

4           Finally, I'm supposed to determine whether  
5           restitution is warranted in this case. There is a restitution  
6           order in this case already imposed by the Eastern District of  
7           Virginia for \$6,164,032, which represents the missing tax  
8           revenue.

9           Do I need to impose that restitution order again in  
10          this case, or should I simply say that paying it is a condition  
11          of his supervised release? Does the government think I need a  
12          separate order, in this case, of restitution?

13          MR. WEISSMANN: Your Honor, we would ask for a  
14          separate order, but we would propose that the Court indicate  
15          that, of course, it only needs to be paid once. In other  
16          words, once the victim, in this case the IRS, is paid the full  
17          amount, if it's over, it's double counting.

18          THE COURT: Okay. All right. For all of the reasons  
19          that I've just set out, in an exercise of my discretion, after  
20          consideration of all the statutory factors, I find that the  
21          following sentence is to be imposed:

22          It is the judgment of the Court that you, Paul  
23          Manafort, are hereby committed to the custody of the Bureau of  
24          Prisons for a term of 60 months on Count 1. This sentence is  
25          to run concurrent to 30 months of the sentence previously

1 imposed by the United States District Court for the Eastern  
2 District of Virginia, which has already accounted for the  
3 credit you are due for the time served.

4 It is further ordered that you are committed to the  
5 custody of the Bureau of Prisons for a term of 13 months on  
6 Count 2, to be served consecutively to the sentence on Count 1  
7 and the sentence imposed by the Eastern District of Virginia.

8 Mr. Downing, are you asking that I make a specific  
9 recommendation as to where he be designated?

10 MR. DOWNING: Yes, Your Honor. We made the request  
11 in EDVA also, which was granted, to the federal prison camp in  
12 Cumberland, Maryland.

13 THE COURT: All right. I will recommend in my order  
14 that the Bureau of Prisons designate him to serve his sentence,  
15 consistent with the recommendation of the Eastern District of  
16 Virginia, at the federal prison camp in Cumberland.

17 You are further sentenced to serve a 36-month term of  
18 supervised release on both counts, to run concurrently to each  
19 other and concurrently to the term of supervised release  
20 imposed in the Virginia case.

21 You are further ordered to pay restitution to the  
22 Internal Revenue Service of the United States in the amount of  
23 \$6,164,032, but that amount only needs to be paid once to  
24 satisfy the two restitution orders.

25 I'm going to decline to impose a fine, given the

1 significant sums in the order of forfeiture and the order of  
2 restitution. You are, however, required to pay a \$200 special  
3 assessment to the court. It's immediately payable to the Clerk  
4 of the Court for the U.S. District Court for the District of  
5 Columbia. While you are incarcerated you can make payments on  
6 the special assessment through your participation in the Bureau  
7 of Prisons' Inmate Financial Responsibility Program.

8 Within 72 hours of your release from custody you  
9 shall report in person to the probation office in the district  
10 to which you are released. While on supervision you shall not  
11 possess a firearm or other dangerous weapon. You shall not use  
12 or possess an illegal controlled substance, and you shall not  
13 commit another federal, state, or local crime.

14 You shall also abide by the general conditions of  
15 supervision adopted by the U.S. probation office, as well as  
16 the following special conditions: Pursuant to 42 U.S. Code  
17 §14135a, as for all felony offenses, you must submit to the  
18 collection and use of DNA identification information while  
19 incarcerated or at the direction of the U.S. probation office.

20 You shall participate in a mental health assessment  
21 and, if recommended, a treatment program, which may include  
22 outpatient counseling as approved and directed by the probation  
23 office.

24 It will be a condition of your supervised release  
25 that you pay the restitution order in full, once, until the

1           \$6 million sum has been satisfied.

2           You shall provide the probation office with your  
3           income tax returns, authorization for release of credit  
4           information, and information about any business or finances in  
5           which you have a control or interest until all the restitution  
6           has been satisfied.

7           Mr. Manafort, you have a right to appeal the sentence  
8           imposed by this Court if the period of imprisonment is longer  
9           than the statutory maximum or the sentence departed upward from  
10          the applicable sentencing guideline range. If you choose to  
11          appeal, you must file any appeal within 14 days after the Court  
12          enters judgment. If you're unable to afford the cost of  
13          appeal, you may request permission from the Court to file an  
14          appeal without cost to you.

15          As I understand, I believe at this point the  
16          government needs to make a motion to dismiss the indictment.

17          MR. WEISSMANN: Yes. There are three underlying  
18          indictments and we would move it dismiss, without prejudice,  
19          the counts. I can name all the counts, if you want. But it's  
20          all of the underlying counts in the three indictments.

21          THE COURT: All right. The motion will be granted.

22          So anything further I need to take up on behalf of  
23          the United States at this time?

24          The order of forfeiture has been signed.

25          MR. WEISSMANN: And that is part of the sentence,

1 Your Honor?

2 THE COURT: Yes. It is now. It will be incorporated  
3 in the judgment and commitment order as part of the sentence in  
4 this case.

5 MR. WEISSMANN: Thank you, Your Honor.

6 THE COURT: All right. Is there anything further I  
7 need to take up right now on behalf of the defense?

8 MR. WESTLING: No, Your Honor.

9 THE COURT: All right. Thank you.

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1  
2                   CERTIFICATE OF OFFICIAL COURT REPORTER  
3  
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5                   I, JANICE DICKMAN, do hereby certify that the above  
6 and foregoing constitutes a true and accurate transcript of my  
7 stenograph notes and is a full, true and complete transcript of  
8 the proceedings to the best of my ability.

9                   Dated this 13th day of March 2019.

10  
11                   /s/ \_\_\_\_\_  
12

13                   Janice E. Dickman, CRR, RMR, CRC  
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